

SESSION LAWS
OF
HAWAII
PASSED BY THE
FIFTH STATE LEGISLATURE

REGULAR SESSION
1970

Convened on Wednesday, January 21
and
Adjourned Sine Die on Tuesday, May 12

Published by Authority of the
Revisor of Statutes
Honolulu, Hawaii

AUTHORITY

Section 2-4, Hawaii Revised Statutes, provides as follows:

Publishing of session laws. As soon as possible after the close of each session of the legislature, the revisor shall prepare for publication all laws duly enacted at such session, arranged in the order of their becoming law, together with a suitable index and tables showing what general statutes have been affected by such session laws.

PREFACE

This volume contains all the laws passed by the Legislature at the Regular Session of 1970.

In preparing this volume, the text of the original laws and proposals has been followed, with the exception of palpable typographical errors.

HIDEHIKO UYENOYAMA
Revisor of Statutes

Honolulu, Hawaii
July 23, 1970

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Lieutenant Governor..... Thomas P. Gill

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REGULAR SESSION

1970

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Session Laws of Hawaii
Passed By The
Fifth State Legislature
Regular Session
1970

ACT 1

H. B. NO. 61

A Bill for an Act Relating to Abortion and Amending Chapter 768, Hawaii Revised Statutes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 768, Hawaii Revised Statutes, is amended by repealing sections 768-6 and 768-7.

SECTION 2. The Hawaii Revised Statutes is hereby amended by adding a new section to read as follows:

“Section . Intentional termination of pregnancy; penalties; refusal to perform.

(a) No abortion shall be performed in this State unless:

(1) Such abortion is performed by a licensed physician or surgeon, or by a licensed osteopathic physician and surgeon; and

(2) Such abortion is performed in a hospital licensed by the department of health or operated by the federal government or an agency thereof; and

(3) The woman upon whom such abortion is to be performed is domiciled in this State or has been physically present in this State for at least ninety days immediately preceding such abortion. The affidavit of such a woman shall be prima facie evidence of compliance with this requirement.

(b) Abortion shall mean an operation to intentionally terminate the pregnancy of a non-viable fetus. The termination of a pregnancy of a viable fetus is not included in this Act.

(c) Any person who knowingly violates this section shall be fined not more than \$1,000 or imprisoned not more than five years, or both.

(d) Nothing in this section shall require any hospital or any person to participate in such abortion nor shall any hospital or any person be liable for such refusal.”

SECTION 3. If any provision or portion thereof of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or portions thereof or applications of the Act which can be given effect without the invalid provision or portion thereof or applica-

ACT 2

tion, and to this end the provisions or portions thereof of this Act are severable.

SECTION 4. This Act shall take effect upon its approval.

(This Act became law on March 11, 1970 without the Governor's signature pursuant to State Constitution, Article III, Section 17.)

ACT 2

S. B. NO. 1190-70

A Bill for an Act Relating to General Obligation Bonds of the State.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Notwithstanding the interest rate limitation contained in section 39-5, Hawaii Revised Statutes, as amended, bonds issued under part 1 of chapter 39, Hawaii Revised Statutes, as amended, and within twelve months of the date of approval of this Act, may bear interest, payable annually or semi-annually, at a rate or rates not exceeding eight per cent a year.

SECTION 2. This Act shall take effect upon its approval.

(Approved March 31, 1970.)

ACT 3

H. B. NO. 1262-70

A Bill for an Act Making Appropriations to Provide for the Expenses of the Legislature, the Legislative Auditor, and the Ombudsman.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is hereby appropriated from the general funds of the State the sum of \$769,184, or so much thereof as may be necessary, for defraying the pre-session, interim session and other expenses of the Senate for the Regular Session of 1970, Fifth State Legislature of the State of Hawaii, and for the period up to and including January 19, 1971.

SECTION 2. There is hereby appropriated from the general funds of the State the sum of \$995,000, or so much thereof as may be necessary, for defraying the pre-session, interim session and other expenses of the House of Representatives for the Regular Session of 1970, Fifth State Legislature of the State of Hawaii, and for the period up to and including January 19, 1971.

SECTION 3. Any unencumbered balances of the appropriations provided for in sections 1 and 2 remaining at the close of the Regular Session of 1970 are hereby appropriated to defray any and all expenses of the Senate and the House of Representatives, respectively, including but without limitation to the generality of the foregoing, the expenses of any committee or committees established by either the Senate or the House of Representatives and the pre-session expenses of the Regular Session of 1971. Payment of such expenses of the Senate shall be made only with the approval of the President of the Senate, and payment of such expenses of the House of Representatives shall be made only with the approval of the Speaker of the House of Representatives.

SECTION 4. Before January 20, 1971, the Senate and the House of Representatives shall have their accounts audited and a full report of such audit

shall be presented to the Senate and to the House of Representatives of the Legislature convening on January 20, 1971.

SECTION 5. The expenses of any member of the Legislature while traveling abroad on official business of the Legislature shall not be limited by the provision of section 78-15, Hawaii Revised Statutes, or by any other general statute. Until otherwise prescribed by law, the expenses of such member shall be \$45 per day and authorized by the President of the Senate or the Speaker of the House of Representatives, respectively.

SECTION 6. There is hereby appropriated from the general funds of the State the sum of \$176,300, or so much thereof as may be necessary, to the office of the ombudsman for defraying the expenses of the office during the fiscal year 1970-71.

SECTION 7. The appropriation provided in Section 6 of Act 2, Session Laws of Hawaii 1969, or so much thereof as may be necessary, may be expended for defraying the expenses of the office of the ombudsman without being limited to the position ceiling of four positions.

SECTION 8. There is hereby appropriated from the general funds of the State the sum of \$881,262 to the office of the legislative auditor for defraying certain expenses during the fiscal year 1970-71 as follows: (a) the sum of \$544,262 or so much thereof as may be necessary for defraying the expenses of the office of the legislative auditor during the fiscal year 1970-71; (b) the sum of \$40,000 (2.5) or so much thereof as may be necessary for defraying the expenses of the office of the state ethics commission during the fiscal year 1970-71; (c) the sum of \$65,000 or so much thereof as may be necessary to secure the services of a consultant, under such specifications as determined by the legislative auditor, to conduct an in-depth examination of and explore alternatives for the Act 97 hospitals' management and control system upon prior joint approval of the President of the Senate and the Speaker of the House of Representatives; (d) the sum of \$32,000 or so much thereof as may be necessary to secure the services of a consultant or consultants, under such specifications as determined by the legislative auditor, to examine the criteria and systems of the department of personnel services' examination program and to explore alternatives for the department's employee performance evaluation program upon prior joint approval of the President of the Senate and the Speaker of the House of Representatives; (e) the sum of \$200,000 shall be used for interim legislative studies, for contractual services for such studies, or for such other purposes as may be determined by the joint action of the President of the Senate and the Speaker of the House of Representatives, or of the Senate and the House of Representatives through the President of the Senate and the Speaker of the House of Representatives.

SECTION 9. Each section of this Act is hereby declared to be severable from the remainder of this Act.

SECTION 10. This Act shall take effect upon its approval.

(Approved April 6, 1970.)

ACT 4

ACT 4

H. B. NO. 40

A Bill for an Act Relating to Foreign Lenders and Mortgage Lending.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Subsection 98L-8(b) of the Revised Laws of Hawaii 1955 is amended in the following respects:

(1) By inserting before the words "or an insurance company" appearing in item (i) the words "a federally chartered savings and loan association, a 'real estate investment trust' as defined in the Internal Revenue Code,";

(2) By deleting the words "any similar organization organized under the laws of the United States or" appearing in item (iii).

SECTION 2. Notwithstanding the adoption of Act 16, Session Laws of Hawaii 1968, this Act shall have full force according to its intent. Upon the taking effect of this Act or the Hawaii Revised Statutes, whichever occurs later, this Act shall be construed to be in amendment of or in addition to the Hawaii Revised Statutes, all references in this Act being construed to refer to the applicable or corresponding provisions of the Hawaii Revised Statutes.

The Revisor of Statutes may reword and renumber the references in this Act and make such other formal or verbal changes as may be necessary to conform with the Hawaii Revised Statutes.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 7, 1970.)

ACT 5

S. B. NO. 1630-70

A Bill for an Act Relating to Intoxicating Liquor Cabaret Licenses.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to extend the closing hour for the transaction of business by cabarets licensed by the county liquor commissions from 3 a.m. to 4 a.m.

SECTION 2. Section 281-31, Hawaii Revised Statutes, as amended by Acts 133 and 198, Session Laws of Hawaii 1969, is amended by amending the last sentence of Class 11 to read as follows:

"Notwithstanding any rule or regulation of the liquor commission to the contrary, cabarets may be opened for the transaction of business until 4 a.m. throughout the entire week."

SECTION 3. This Act shall take effect upon its approval.

(Approved April 27, 1970.)

ACT 6

H. B. NO. 944

A Bill for an Act Relating to the Department of Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 298-4, Hawaii Revised Statutes, is hereby amended to read as follows:

"Section 298-4. Kindergartens; attendance. The department of education may establish and maintain kindergartens with a program of instruction in school zones in which there are at least fifteen children eligible to attend, as a part of the public school system. No child shall attend any kindergarten unless he will be at least five years of age on or before December 31 of the school year; provided that a child attending a school which convenes after the regular school schedule shall be five years of age on or before one hundred twenty-five days following the date the school convenes; and provided further that the department may establish procedures and criteria to determine the psychological and physiological readiness of children for kindergarten and may grant an exception in the case of a child who is found to be ready.

"The department may accept gifts to establish and maintain kindergartens."

SECTION 2. Section 298-8, Hawaii Revised Statutes, is hereby amended to read as follows:

"Section 298-8. Public schools; attendance. Except as authorized by section 298-4, no child shall attend any public school unless he will be at least six years of age on or before December 31 of the school year; provided that a child attending a school which convenes after the regular school schedule shall be six years of age on or before one hundred twenty-five days following the date such school shall convene; and provided further that the department of education may establish procedures and criteria to determine the psychological and physiological readiness of children for public school and may grant an exception in the case of a child who is found to be ready.

"All teachers who teach in the first and second grades and principals of public schools shall enforce this section and require proof of age by birth certificates or certificates of registration, or if none can be obtained, then by satisfactory evidence."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.

(Approved April 28, 1970.)

ACT 7

H. B. NO. 1369-70

A Bill for an Act Relating to the Department of Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 297-3, Hawaii Revised Statutes, is amended to read:

* Edited accordingly

ACT 8

“Section 297-3. Certificates; revocation. The department of education may revoke any certificate after issuance thereof when satisfied that the holder thereof does not possess the qualifications mentioned in section 297-2, but in such case the holder of the certificate shall first be given full opportunity to justify the holding of the certificate.”

SECTION 2. Section 297-2, Hawaii Revised Statutes, is amended to read:

“Section 297-2. Teachers; qualifications; certificates. No person shall serve as a teacher in any school without first having obtained a certificate from the department of education, which certificate shall be issued without cost to the teacher, in such form as the department determines. The department shall establish types of certificates in the educational field and the requirements to qualify for those certificates.”

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 8, 1970.)

ACT 8

H. B. NO. 1416-70

A Bill for an Act Relating to the Department of Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 296-13, Hawaii Revised Statutes, is repealed.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 8, 1970.)

ACT 9

H. B. NO. 1806-70

A Bill for an Act Relating to Marriage.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 572-1 Hawaii Revised Statutes is hereby amended to read as follows:

“Sec. 572-1 Requisites of valid marriage contract. In order to make valid the marriage contract, it shall be necessary that:

- (1) The respective parties do not stand in relation to each other of ancestor and descendant of any degree whatsoever, brother and sister of the half as well as to the whole blood, uncle and niece, aunt and nephew, whether the relationship is legitimate or illegitimate;

* Edited accordingly

- (2) The male at the time of contracting the marriage is at least eighteen years of age and the female at least sixteen years of age;
- (3) The man does not at the time have any lawful wife living and that the woman does not at the time have any lawful husband living;
- (4) Neither of the parties is impotent or physically incapable of entering into the marriage state;
- (5) Consent of neither party to the marriage has been obtained by force, duress, or fraud;
- (6) Neither of the parties is a person affected with leprosy or afflicted with any loathsome disease concealed from, and unknown to, the other party; and
- (7) It shall in no case be lawful for any persons to marry in the State without a license for that purpose duly obtained from the agent appointed to grant marriage licenses;

provided that with the written approval of the family court of the circuit within which the minor resides, it shall be lawful for a male under the age of eighteen years but in no event under the age of seventeen years, and for a female under the age of sixteen years, but in no event under the age of fifteen years, to marry, subject to section 572-2. The marriage ceremony shall be performed only in the judicial circuit in which the license is issued."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 8, 1970.)

ACT 10

H. B. NO. 1813-70

A Bill for an Act Relating to the Appointment of Probation Officers.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 711-78, Hawaii Revised Statutes, is amended to read:

"§711-78. Probation officers. Any circuit judge or district magistrate may appoint one or more persons as probation officers who shall, unless otherwise provided by law, serve without compensation."

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 8, 1970.)

* Edited accordingly

A Bill for an Act Relating to Hawaiian Birth Records.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 338-41, Hawaii Revised Statutes, is amended to read as follows:

“Section 338-41. Issuance; procedure. The department of health may, whenever satisfied that any person was born within the State, cause to be issued to the person a certificate showing such fact; provided, that the person has attained the age of one year. The department may make such regulations respecting the form of application and certificates, the method of proof, kind of evidence, and time, place, and manner of hearing, and all other matters and circumstances connected with the application, proof, and hearing, as to him may appear necessary, and the regulations, when so approved and made in accordance with chapter 91, shall have the force of law. The department shall furnish the form of the applications and certificates. All applications shall be by sworn petition, in which the party shall set forth the facts upon which the application rests.

A department representative may examine under oath any applicant or person cognizant of the facts regarding any application, and for that purpose he may administer oaths; subpoena and compel the attendance of witnesses and the production of books and papers; punish for contempts; and, generally, exercise the same authority with regard to his special jurisdiction as conferred by law upon district magistrates.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act, upon its approval, shall take effect on July 1, 1970.

(Approved May 8, 1970.)

A Bill for an Act Relating to Department of Transportation, Highways Division Baseyards.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. **Purpose.** The purpose of this Act is to broaden the scope of previous authorization for Highways Division baseyards at Keauhou and Honokaa, Island of Hawaii. Previous authorization specifically provided for the erection of quonset huts at the baseyards, but this is not economically feasible at present. In addition, current operations require other facilities such as gasoline pumps and storage tanks, utilities connections and restroom facilities which were not included in prior authorizations.

* Edited accordingly

SECTION 2. Notwithstanding the express provisions of the authorizations for the Keauhou Baseyard contained in: (1) Item IV-B-13 of Section 1, Act 38, Session Laws of Hawaii 1966; (2) Item C-114 of Section 1, Act 217, Session Laws of Hawaii 1967; and (3) Item C-70a of Section 1, Act 40, Session Laws of Hawaii 1968, the Department of Transportation may expend the funds appropriated thereby to construct a new baseyard and related facilities at Keauhou, North Kona, Hawaii.

SECTION 3. Notwithstanding the express provisions of the authorizations for the Honokaa Baseyard contained in (1) Item IV-B-14 of Section 1, Act 38, Session Laws of Hawaii 1966; and (2) Item C-115 of Section 1, Act 217, Session Laws of Hawaii 1967, the Department of Transportation may expend the funds appropriated thereby to construct a new baseyard and related facilities at Honokaa, Hawaii.

SECTION 4. This act shall take effect upon its approval.
(Approved May 14, 1970.)

ACT 13

H. B. NO. 1809-70

A Bill for an Act Relating to Jury Lists.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 609-10, Hawaii Revised Statutes, is amended to read:

"Sec. 609-10 Jury lists. Every year the jury commission of each circuit shall make and, at least ten days prior to the court term, file with the clerk of its circuit court, a certified list of the names and addresses of fifty citizens selected to be subject to serve as grand jurors during the ensuing year.

At the same time the jury commission of each circuit shall likewise file a separate certified list of the names and addresses of citizens selected to be subject to serve as trial jurors during the ensuing year, the number for each circuit to be such as the jury commission considers necessary.

All citizens selected shall be persons whom the respective commissions believe, after careful investigation in each case, to be qualified under section 609-1, and not exempt under section 609-3, or excused from jury duty as hereinafter provided; provided, that any such person who is exempt under section 609-3 may be selected if he waives his exemption; and provided, further, that nothing herein shall be construed as affecting the power of a court to excuse a juror, pursuant to section 609-4, who may be so certified and listed. All selections shall be made without reference to sex, political affiliations, race, or place of nativity of citizens, with a view to obtain lists representative of the qualified citizenry of each circuit. In arriving at such certified lists, each commission may, with the approval in writing of the judge or administrative judge of its circuit court, excuse a citizen from jury duty for any cause set forth in section 609-4.

The circuit judge or any of the judges of the first circuit court may at any time, for reasons appearing sufficient to him, order the dissolution of any list of

ACT 14

grand or trial jurors and the discharge of the persons named thereon. Upon the entry of the order, the jury commission shall make and file with the clerk of the circuit court within such time as the judge shall direct another list of grand and trial jurors, which may include any of the persons so discharged, to serve for the remainder of the year."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 14, 1970.)

ACT 14

H. B. NO. 2042-70

A Bill for an Act Relating to Transfers from Airport Revenue Fund.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 36, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 36- . Transfer from airport revenue fund. Any law to the contrary notwithstanding, there shall be deducted from time to time by the director of finance for the purpose of defraying the prorated estimate of central service expenses of government in relation to the airport revenue fund five per cent of all receipts and deposits in the airport revenue fund after deducting therefrom any amounts pledged, charged, or encumbered for the payment of bonds or interest thereon during the current year, from which receipts or deposits no deduction of five per cent has previously been made. The deduction of five per cent has previously been made. The deductions shall be transferred to the general fund of the State and become general realizations of the State. For the purpose of this section, the term 'any amounts pledged, charged, or encumbered for the payment of bonds or interest thereon during the current year' shall include:

- (1) amounts which are so pledged, charged or encumbered;
- (2) amounts otherwise required to be applied to the payment of principal of and interest on revenue bonds or other revenue obligations; and
- (3) amounts required by law to be paid from the airport revenue fund into the general fund of the State to reimburse the general fund for bond requirements for general obligation bonds issued for airport purposes.

"The director of transportation shall cooperate with the director of finance in effecting the transfer."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 14, 1970.)

* Edited accordingly

ACT 15

H. B. NO. 1436-70

A Bill for an Act Relating to Land Court Registration.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 501-116, Hawaii Revised Statutes, is amended to read:

"Sec. 501-116. Mortgage registration necessary. The owner of any interest in registered land may mortgage such interest by executing a mortgage thereof. Such a mortgage may be assigned, extended, discharged, released in whole or in part, or otherwise dealt with by the mortgagee by any form of instrument sufficient in law for the purpose. The mortgage, and all instruments assigning, extending, discharging, and otherwise dealing with the mortgage, shall be registered and shall take effect upon the title of the mortgaged property only from the time of registration."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 19, 1970.)

ACT 16

H. B. NO. 1459-70

A Bill for an Act Relating to the Unrequested Issuance of Credit Cards.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 730, Hawaii Revised Statutes, is amended by adding thereto a new section to be appropriately designated and to read as follows:

"Section 730- . Unrequested issuance; limitation on liability. Unless a person in whose name a credit card has been sold, issued or otherwise distributed by the issuer has made a prior written request for such sale, issuance or distribution, he shall not be liable for any debts incurred through the use of the credit card by any other person prior to the first use of the card either by himself or by another with his consent."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 19, 1970.)

ACT 17

H. B. NO. 1801-70

A Bill for an Act Relating to Perjury and Related Offenses in the Family Courts and Providing a Penalty Therefor.

* Edited accordingly

ACT 18

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 571, Hawaii Revised Statutes, is amended by adding new sections to be appropriately designated and to read as follows:

"Sec. 571- . Certification in lieu of oath. Whenever any testimony, declaration, deposition, certification or pleading in the family court is required or authorized to be on oath or affirmation, the person so required or authorized may testify, declare, depose, certify, or plead under "penalty of perjury" in such form as may be prescribed by the court."

"Sec. 571- . Offense. A person who makes a false statement which he does not believe to be true commits an offense whether the false statement is made under an oath required or authorized by law or under "penalty of perjury" as authorized by Sec. 571- of this Act."

"Sec. 571- . Penalty. The penalty for the offense of making a false statement under "penalty of perjury" shall be the same as would apply if the false statement had been made under oath or affirmation required or authorized by law."

SECTION 2. This Act shall take effect on July 1, 1970.

(Approved May 19, 1970.)

ACT 18

H. B. NO. 1811-70

A Bill for an Act Relating to Law Clerks of the Circuit Courts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Subparagraph (9) of section 76-16, Hawaii Revised Statutes, is amended to read:

- (9) One secretary or clerk for each justice of the supreme court and each judge of the circuit court; one law clerk for each justice of the supreme court and each judge of the circuit court (provided that the law clerk for a judge of the circuit court shall be employed in lieu of and shall have the powers and duties of a court officer and bailiff under section 606-14); and one private secretary for each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in subparagraph (17);

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 19, 1970.)

ACT 19

S. B. NO. 1194-70

A Bill for an Act Relating to the Department of Accounting and General Services.

* Edited accordingly

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 26-6, Hawaii Revised Statutes, is amended by deleting from the second paragraph the phrase, "perform the function of data processing;".

SECTION 2. This Act shall take effect upon its approval.
(Approved May 26, 1970.)

ACT 20

S. B. NO. 1237-70

A Bill for an Act Relating to Registration of Economic Poisons.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 149-4(b), Hawaii Revised Statutes, is hereby amended to read:

"(b) The registrant shall pay an annual fee of \$10 for each economic poison registered. Such registration shall expire on December 31 and shall be renewed annually; provided that all registrations expiring on June 30, 1970 shall continue in force and expire on December 31, 1970 upon payment by the registrant of \$5 on or before July 31, 1970 for each economic poison registered. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the economic poison was registered or last re-registered. All fees collected shall be deposited in the general fund of the State."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.
(Approved May 26, 1970.)

ACT 21

H. B. NO. 1348-70

A Bill for an Act Relating to Reporting of Child Abuse.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 350-1, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 350-1 Reports. Any doctor, which for the purposes of this chapter means any person licensed by the State to render services in medicine, osteopathy, dentistry, or any of the other healing arts, examining, attending, or treating a minor, or any registered nurse, school teacher, social worker, or coroner acting in his official capacity, having reason to believe that such minor has had injury inflicted upon him as a result of abuse or neglect, shall promptly report the matter orally to the department of social services; provided that when examination, attendance, or treatment with respect to the minor is pursuant to the performance of services as a member of the staff of a hospital or similar facility, the staff member shall immediately notify the person in charge of the medi-

* Edited accordingly

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cal facility, or his designated delegate, who shall report or cause reports to be made in accordance with this chapter.

The initial oral report shall be followed as soon thereafter as possible by a report in writing. The report shall contain the name and address of the minor and of his parents or other persons responsible for his care, if known, the minor's age, the nature and extent of the minor's injuries, and any other information that the reporter believes might be helpful in establishing the cause of the injuries.

Any other person who has reason to believe that a minor has had injury inflicted upon him as a result of abuse or neglect may report the matter orally to the Department of Social Services."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 26, 1970.)

ACT 22

H. B. NO. 1368-70

A Bill for an Act Relating to the Department of Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 296-43, Hawaii Revised Statutes, is amended to read as follows:

"Section 296-43. School Lunches. School lunches will be made available under the school lunch program in every school where the students are required to eat lunch at school."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect on July 1, 1970.

(Approved May 26, 1970.)

ACT 23

H. B. NO. 1421-70

A Bill for an Act Relating to Compulsory Attendance at School.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 298-9, Hawaii Revised Statutes, is amended to read:

"Section 298-9. Attendance Compulsory; Exceptions. Unless excluded from school or excepted from attendance, all children who will have arrived at the age of at least six years, and who will not have arrived at the age of eighteen years, on or before December 31 of any school year, shall attend either a public or private school for and during such school year, and any parent, guardian, and other person having the responsibility for or care of a child whose attend-

* Edited accordingly

ance at school is obligatory shall send the child to some such school. Such attendance shall not be compulsory in the following cases:

- (1) Where the child is physically or mentally unable to attend school (deafness and blindness excepted) of which fact the certificate of a duly licensed physician shall be sufficient evidence;
- (2) Where a competent person is employed as a tutor in the family wherein the child resides and proper instruction is thereby imparted as approved by the superintendent;
- (3) Where any child who has reached the fifteenth anniversary of birth is suitably employed and has been excused from school attendance by the school department or its authorized agents, the family court or the district magistrate;
- (4) Where, upon investigation by the family court, when feasible, or by the district magistrate, it has been shown that for any other reason the child may properly remain away from school; or
- (5) Where a child graduated from a high school or vocational school."

SECTION 2. Statutory material to be repealed is bracketed. New material underscored. In printing this Act the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect on July 1, 1970.

(Approved May 26, 1970.)

ACT 24

H. B. NO. 1803-70

A Bill for an Act Relating to the Jurisdiction of the Family Courts to Render Personal Judgments against Absent Defendants.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 580, Hawaii Revised Statutes, is amended by adding the following new section to be appropriately designated and to read as follows:

"Sec. 580- . Personal judgment against absent defendant. In any proceeding in the family court, the court shall have the power to render a personal judgment against a party who is outside of this State and over whom jurisdiction is acquired by service of process in the manner set forth in Section 80-3(b) or (c), if the party was personally served with a copy of the summons or order to show cause and complaint or other pleading upon which the judgment is based and if the party was a domiciliary of this State (a) at the time that the cause of action which is the subject of the proceeding arose, or (b) at the time of the commencement of the proceeding, or (c) at the time of service."

SECTION 2. **Effective date.** This Act shall take effect upon its approval.

(Approved May 26, 1970.)

* Edited accordingly

A Bill for an Act Relating to Paternity Proceedings.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 579-1, Hawaii Revised Statutes, is hereby amended to read as follows:

“Sec. 579-1 Petition against alleged father; time limit; preliminary examination. Any unmarried woman or any married woman who was separated from and was not living with her husband prior to and at the time her child was conceived, when her pregnancy can be determined by competent medical evidence, or within two years after the delivery of her child, may petition the judge of the family court of the circuit in which she or the alleged father of the child resides, or in which she was delivered of the child, for an adjudication of paternity and for other relief under this chapter against the person whom she alleges is the father of the child.

The petition may also be filed by either of the parents or a guardian of the mother, or by any person as the next friend of the child, or by any public officer or employee concerned with the welfare of the child, within two years after the date of the child's birth. If, after the petition has been filed either by the mother or by any one as above specified, the mother dies or refuses or neglects to prosecute the same, any of such persons may prosecute the case to final judgment for the benefit of the parent, guardian, or the child, or any public or private agency supporting or contributing to the support of the child.

The fact that a child is born dead or dies at a later date prior to the filing of a petition as above provided, or during the pendency of the proceedings, shall not operate as a bar to the issuance of process and the entry of a judgment under this chapter.”

SECTION 2. Section 579-2, Hawaii Revised Statutes, is hereby amended to read as follows:

“Sec. 579-2 Issuance of process; warrant, when; preliminary hearing; bond; jury trial, when. Upon the filing of a petition pursuant to section 579-1, process shall issue in the form of a summons and an order directed to the defendant requiring him to appear and to show cause why the prayer of the petition should not be granted.

If, at any stage of the proceedings, there appears probable cause to believe that the defendant will evade the service of process, or will fail to appear in response thereto, or will flee the jurisdiction of the court, the judge may issue a warrant directed to the sheriff, his deputy, or any police officer within the circuit, requiring the accused to be arrested and brought for preliminary hearing before the judge of the family court. Upon such preliminary hearing, or at any time subsequent to the preliminary examination of the petitioner, the judge may require the defendant to enter into bond with good sureties to the State in a sum to be fixed by the judge for his appearance and the trial of the proceeding in the family court. If the defendant fails to give the bond required of him, the judge may forthwith commit him to the custody of the chief of police of the

county, there to remain until he enters into the required bond or otherwise is discharged by due process of law.

In all proceedings under this chapter, the defendant shall, upon his written demand therefor, filed at the time of his appearance or within such time thereafter as the judge may allow, and if he appears at the time set for the trial, be entitled to a trial by jury; otherwise the trial shall be by the judge. No such trial shall take place prior to the birth of the child involved."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.
(Approved May 26, 1970.)

ACT 26

H. B. NO. 752

A Bill for an Act Relating to Elections.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Declaration of purpose. Due to the initiation of new voting systems, new parties, a rapidly increasing and mobile population, and actions of the 1968 Constitutional Convention, a thorough revision of the election laws of the State and county is necessary.

SECTION 2. The Hawaii Revised Statutes, as amended, is amended by adding the following new chapters to be numbered and to read as follows:

CHAPTER 11

ELECTIONS, GENERALLY

PART I. GENERAL PROVISIONS

§11-1 Definitions. Whenever used in this title, the words and phrases in this title shall, unless the same is inconsistent with the context, be construed as follows:

"Ballot," a ballot including an absentee ballot is a written or printed, or partly written and partly printed paper or papers containing the names of persons to be voted for, the office to be filled, and the questions or issues to be voted on. A ballot may consist of one or more cards or pieces of paper depending on the number of offices, candidates to be elected thereto, questions or issues to be voted on, and the voting system in use. It shall also include the face of the mechanical voting machine when arranged with cardboard or other material within the ballot frames, containing the names of the candidates and questions to be voted on.

"Chief election officer," the lieutenant governor as set forth in section 11-2.

"Clerk," the county clerks of the respective counties.

"County," the counties of Hawaii, Maui, Kauai, and the city and county

* Edited accordingly

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of Honolulu, as the context may require. For the purposes of this title, the county of Kalawao shall be deemed to be included in the county of Maui.

“Election,” all elections, primary, general, special, or county, unless otherwise specifically stated.

“Election officials,” inspectors, clerks, and other persons designated as such by the chief election officer.

“Office,” an elective public office.

“Political party” or “party,” a political party qualified under part V of this chapter.

“Precinct,” the smallest political subdivision established by law.

“Primary,” a preliminary election in which the voters nominate candidates for office as provided for in chapter 12.

“Voter,” any person duly registered to vote.

“Voting system,” the use of paper ballots, electronic ballot cards, voting machines, or any system by which votes are cast and counted.

§11-2 Chief election officer. (a) The lieutenant governor shall be the chief election officer for the administration of this title. He shall supervise all state elections. The chief election officer may delegate responsibilities in state elections within a county to the clerk of that county or to other specified persons.

(b) The chief election officer shall be responsible for the maximization of registration of eligible electors throughout the State. In maximizing registration the chief election officer shall make an effort to equalize registration between districts, with particular effort in those districts in which he determines registration is lower than desirable. The chief election officer in carrying out this function may make surveys, carry on house to house canvassing, and assist or direct the clerk in any other area of registration.

(c) The chief election officer shall maintain data concerning registered voters, elections, apportionment, and districting. He shall use this data to assist the reapportionment commission provided for under Article III, Section 4 of the Constitution.

§11-3 Application of chapter. This chapter shall apply to all elections, primary, general, special, or county, held in the State, under all voting systems used within the State, so far as applicable and not inconsistent herewith.

§11-4 Rules and regulations. The chief election officer may make, amend, and repeal such rules and regulations governing elections held under this title, election procedures, and the selection, establishment, use, and operation of all voting systems now in use or to be adopted in the State, and all other similar matters relating thereto as in his judgment shall be necessary to carry out this title.

In making, amending, and repealing rules and regulations for voters who cannot vote at the polls in person and all other voters, the chief election officer shall provide for voting by such persons in such manner as to insure secrecy of the ballot and to preclude tampering with the ballots of these voters and other election frauds. Such rules and regulations, when adopted in conformity with

chapter 91 and upon approval by the governor, shall have the force and effect of law.

§11-5 Employees. The chief election officer or county clerk may employ election inspectors, clerks, and such other temporary election employees as he may find necessary, none of whom shall be subject to the civil service or classification laws of the State or be required to become members of the employees retirement system.

PART II. REGISTRATION

§11-11 Registration. A person who registers as required by law shall be entitled to vote at any election and to be listed upon the appropriate county general register and precinct list. The county clerk shall be responsible for voter registration in the respective counties and the keeping of the general register and the precinct lists within the county.

§11-12 Age; place of registering. Every person who has reached the age of twenty years, or who will have reached the age of twenty years prior to the date of the next election, and is otherwise qualified to register may do so in the precinct in which he resides. No person shall register or vote in any other precinct than that in which he resides except as provided in section 11-21.

§11-13 Rules for determining residency. In determining residency in the State a wife may treat herself separate from her husband; provided that, if the husband is a resident of this State, as defined herein, then the residency of the husband shall determine the residency of the wife. The following rules shall determine residency for State and precinct purposes:

- (1) The residence of a person is that place in which his habitation is fixed, and to which, whenever he is absent, he has the intention to return;
- (2) A person does not gain residence in any precinct into which he comes without the present intention of establishing his permanent dwelling place within such precinct;
- (3) If a person resides with his family in one place, and does business in another, the former is his place of residence; but any person having a family, who establishes his dwelling place other than with his family, with the intention of remaining there shall be considered a resident where he has established such dwelling place;
- (4) The mere intention to acquire a new residence without physical presence at such place, does not establish residency, neither does mere physical presence without the concurrent present intention to establish such place as his residence. For the purposes of the election laws there can only be one residence;
- (5) A person does not gain or lose a residence solely by reason of his presence or absence while employed in the service of the United States or of this State, or while a student of an institution of learning, or while kept in an institution or asylum, or while confined in a prison;

- (6) No member of the armed forces of the United States, his spouse or his dependent is a resident of this State solely by reason of being stationed in the State;
- (7) A person loses his residence in this State if he votes in an election held in another state by absentee ballot or in person;
- (8) The term of residence is computed by including the day on which the person's residence commences and by excluding the day of election;
- (9) In case of question, final determination of residence shall be made by the clerk, subject to appeal to the board of registration under part III of this chapter.

§11-14 General county register. The clerk of each county shall register all the voters in his county in the general county register. The register shall contain the information required by section 11-15. The voter's name shall be maintained alphabetically in the register and be capable of segregation by precinct and representative district. The clerk shall keep the original or photographic copy of the affidavit of registration required by section 11-15. The general county register shall, at all times during business hours, be open to public inspection, and shall be a public record.

In all primary elections held in 1970 and subsequently the clerk shall include in the general county register information to show the primary ballot selected by each of the voters at the next preceding primary election, or the registered change of primary ballot selection by any voter. Newly registered voters who did not choose a party upon registering, those who failed to vote in any primary, voters who voted for a disqualified party, and those who voted in a separate ballot for the board of education only shall have no such information recorded.

§11-15 Application to register. Any person qualified to and desiring to register as a voter in any county, may present himself at any time during business hours to the clerk of the county, then and there to be examined under oath as to his qualifications as a voter. Each applicant shall make and subscribe to an application in the form of an affidavit.

The affidavit shall contain the following information:

- (1) Name;
- (2) Social security number, if any;
- (3) Date of birth;
- (4) Age;
- (5) Residence;
- (6) Place of current employment, if any;
- (7) That the person has or will have resided in the State for a period of not less than one year immediately preceding the date of the next primary, general, or special election;

- (8) That the residence stated in the affidavit is not simply because of the person's presence in the State but that the residence was acquired with the intent to make Hawaii the person's legal residence;
- (9) That the person is a citizen.

The applicant shall swear to the truth of the allegations in his application before the clerk, who is authorized to administer oaths. Unless contested by a qualified voter, the clerk may accept, as prima facie evidence, the allegation of the applicant in information required in the affidavit in item 8. In any other case where the clerk shall so desire or believe the same to be expedient, he may demand that the applicant furnish substantiating evidence to the allegations of his application.

If the clerk is satisfied that the applicant is entitled to be registered as a voter, the applicant shall then affix his signature to the affidavit and the clerk shall affix his signature; or the clerk shall enter "Unable to sign" and the reason in the space for the applicant's signature. A voter having once been registered shall not be required to register again for any succeeding election, except as hereinafter provided. The affidavits so approved or accepted by the clerk shall thereupon be numbered appropriately, filed by the clerk and kept in some convenient place so as to be open to public inspection and examination.

The clerk may designate a subordinate or subordinates to act in his place and stead in all matters covered by this section.

§11-16 Application when not made in person. Any qualified person unable for any cause to present himself in person before the clerk for registration may secure from the clerk an application form which may be filled out. This form may be sworn to before any commissioned officer in the active service of the Armed Forces, any member of the merchant marine of the United States designated for this purpose by the Secretary of Commerce, the head of any department or agency of the United States, or by an employee specifically designated by such head, or any civilian official empowered by state or federal law to administer oaths.

Upon receipt of the properly executed application, the clerk shall proceed to number the same and register the name of the voter in the general county register as provided in section 11-15. In registering persons under this section the clerk may accept requests for absentee ballot submitted in accordance with the Federal Voting Assistance Act of 1955 or other similar federal law as being sufficient for registration purposes.

§11-17 Removal from register upon failure to vote; reregistration. The clerk shall, within sixty days after every general election, remove the name of any registered voter failing to vote at the election if such voter also failed to vote at the preceding primary election. For this purpose "to vote" shall mean the depositing of the ballot in the ballot box whether such ballot be blank or later rejected for any reason. In the case of voting machines "to vote" shall mean the voter has activated the proper mechanism and fed his vote into the machine. In the case of absentees "to vote" shall mean seasonably mailing the absentee ballot to the county clerk whether or not such ballot was counted. It

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shall include those ballot envelopes that were marked "questionable" due to an illegible postmark.

Any voter whose name has been removed from the register may at any time prior to the closing of the register, as provided in section 11-24, have his name restored in the register by presenting himself to the clerk and reregistering pursuant to section 11-15, or by making application by mail or otherwise pursuant to procedures established by the clerk. The clerk shall compare the signature with the signature of the voter as previously registered, and if found by him not to be similar, he may require further proof. The names of all such voters shall be reentered in the register.

§11-18 Reregistration on removal from one precinct to another in same county. A registered voter who changes his residence from one precinct to another shall notify the clerk and change his registration to the proper precinct; provided, that no such change of registration shall be allowed or required on account of any change of residence made within three months before an election unless from one precinct to another within the same representative district.

§11-19 Reregistration on removal from one county to another. Whenever any person who has registered as a voter in any county removes to and desires to register in some other county, he shall apply to the clerk of the county in which he desires to be registered. Thereupon such clerk, if the person applying is legally qualified to register, shall accept such registration and shall immediately thereafter forward to the clerk of the county in which the person was formerly registered, a notice that the name of the registered voter is to be removed from the general county register of that county. No such change of registration shall be allowed between the date of a primary election and the immediately succeeding general election as to any person who exercised the privilege of voting in such primary election unless the voter meets the other requirements of residency and applied for transfer in accordance with section 11-21.

§11-20 Transfers; name changes; initiated by clerk. The clerks shall use all reliable and pertinent information to keep the general register up to date. The county clerks may request information from, but are not limited to, the following sources:

- (1) The office of the lieutenant governor for any change of name;
- (2) Courts for any changes of name, divorces, separations, or other changes affecting voter status;
- (3) The department of health for marriages, deaths, or other changes affecting voter status;
- (4) Utility companies concerning commencement or changes of service;
- (5) Residential apartments, cooperative apartments, and condominiums as to changes of occupancy.

In requesting such information the clerk shall give reasonable notice and time for furnishing the information.

If the clerk has evidence indicating that a voter's registration should be transferred, then at least ninety days prior to the primary the clerk shall notify the person by first-class mail and within three days thereafter publish in a newspaper of general circulation notice of intent to transfer registration. Notice by mail shall be sent to the address shown on the current voter list and any alleged new address. The notifications shall include:

- (1) Any evidence that the clerk may have indicating why a transfer or change should be made;
- (2) The residence, precinct, and district of the voter according to current registration lists;
- (3) The alleged new address, precinct, and district;
- (4) A reply form which shall contain a space for the voter's agreement or objection to the transfer and the reasons for the objection;
- (5) Notice that unless the completed form is returned within fifteen days of mailing the voter shall be subject to challenge at the polls under the terms of section 11-25 on the basis of not being registered in the precinct where he resides.

If no response is received by the clerk within fifteen days, a second notification shall be made no later than sixty days prior to the primary, by telephone or personal contact. A record shall be maintained of all the phone calls or attempted personal contacts noting the date, time, person calling, person called, and reply received.

If, on the basis of the evidence available the clerk has good reason to believe that the voter does actually reside at some address other than the one carried on the registration list, the clerk shall transfer the voter to such new address. A list of those transferred, and the precinct to which they were moved, will be available at the old precinct on election day. A voter may contest such transfer on or before election day by presenting evidence that he actually resides at the old address which, if found valid by the clerk or the board of registration, shall entitle the voter to be returned to the old voting list by executive order.

A list of all voters with questionable addresses who fail to respond to notification attempts of the clerk, but who have not been transferred, shall be posted at the precinct wherein he is registered on election day and shall be made available to the public at least forty-five days prior to the primary election.

§11-21 Change of name, transfer at primary. The county clerk shall designate a registration clerk, who may be an election official, at all of the polling places in his county on the day of the election. These registration clerks shall take applications for change of name from voters who have been married or who have had their name changed since the last election. Any person whose residence has changed since the last election, and who the county clerk has not transferred under section 11-20 may apply at his old polling place on the day of the election for transfer of his registration to the precinct of his new residence.

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Where a person was incorrectly placed on a list of voters of a precinct in which he does not actually reside he may correct his registration. No person shall be prevented from voting at the election in the precinct in which his name appears on the voters list due to a change of name, change of registration, or other correction made under this section. However any voter registered in the wrong precinct who shall refuse to correct his registration may be challenged in accordance with law. Any person changing his name or transferring shall receive a copy of the change or transfer form.

§11-22 Changing register; correction of errors. The clerk shall correct the register if at any time it shall be manifest to him that the name of a person registered has been accidentally misspelled, or that he has been misnamed therein, or that he has been accidentally registered under the wrong precinct.

In any case where the clerk refuses to correct the register the person may appeal to the board of registration and the register shall be changed upon a written order of the board of registration, setting forth the reasons for the change. The order shall be directed to the clerk or to the election inspectors of the election precinct where the voter is entitled to vote if the register has been closed. The inspectors shall thereupon correct the list of voters furnished them according to the terms of the order, noting on the list the reasons for the correction, and shall send the original order to the clerk as soon as may be after the close of the polls. The clerk, upon receipt of any order from the board of registration or from the inspectors, as the case may be, shall correct the register according to the terms of the order, making on the register a reference to the order. The order shall thereafter be given the same number as the affidavit of the voter registered and filed with the affidavit in some convenient manner so as to be open to public inspection.

§11-23 Changing register; striking names of disqualified voters. Whenever the clerk receives from the department of health or any informing agency information of the death, loss of voting rights of a person sentenced for a felony as provided in section 716-2, adjudication of insanity or feeble-mindedness, loss of citizenship, or any other disqualification to vote, of any person registered to vote in his county, or who he has reason to believe may be registered to vote therein, he shall thereupon make such investigation as he may deem necessary to prove or disprove the information, giving the person concerned, if available, notice and an opportunity to be heard. If after the investigation he finds that the person is dead, or non compos mentis, or has lost his voting rights pursuant to section 716-2, or has lost his citizenship, or is disqualified for any other reason to vote, he shall remove the name of the person from the register.

The clerk shall make and keep an index of all information furnished to him under any requirements of law concerning any of the matters in this section. Whenever any person applies to register as a voter, the clerk shall, before registering the person, consult the index for the purpose of ascertaining whether or not the person is in any manner disqualified to vote. Any person whose name is removed from the register of voters under this section may appeal in the manner provided by sections 11-26 and 11-51, and such proceedings shall be had upon the appeal as in other appeals under these sections.

§11-24 Closing register; list of voters. (a) Forty-five days prior to the day for holding each special or primary election (but if such day is a Saturday, Sunday, or holiday then at midnight of the first working day immediately preceding), the general county register shall be closed to registration for persons seeking to vote at such a special or primary election and remain closed to such registration until after the election, subject to change only as provided in sections 11-21, 11-22, 11-25, 11-26, and this section.

Notwithstanding the closing of the register for registration to vote at the primary election, the register shall remain open for the registration of persons seeking to vote at the general election, up to midnight of the fifth day following the primary election, at the end of which period the general county register shall be closed to registration and remain closed until after the general election next following, subject to change only as provided in sections 11-21, 11-22, 11-25, and 11-26.

Immediately upon the closing of the general county register, the clerk shall proceed to prepare a list of all registered voters in each precinct, separately. The list shall contain, in alphabetical order, without designation of the race or age of voters, the names of all voters so registered in each precinct, and the residence of each. In primary elections the list shall include the party affiliation or nonpartisanship of the voter, if so contained in the general county register. The list shall be available for inspection at the office of the county clerk prior to election day. On election day the election inspectors shall post the list at the precinct polling place.

§11-25 Challenge by voters; grounds; procedure. (a) Challenging prior to election day. Any registered voter may, for any cause not previously decided by the board of registration or the supreme court in respect to the same person, challenge the right of that person to be or to remain registered as a voter in any precinct. The challenge shall be in writing, setting forth the grounds upon which it is based, and be signed by the person making the challenge. The challenge shall be delivered to the clerk who shall forthwith serve notice thereof on the person challenged. The clerk shall, as soon as possible, investigate and rule on the challenge.

(b) Challenging on election day. Any voter rightfully in the polling place may challenge the right of any person, presenting himself to the election inspectors to vote. The challenge shall be on the grounds that the voter is not the person he alleges himself to be, that the voter is not entitled to vote in that precinct, or in a primary election that the voter is not entitled to vote because he refuses to state his party preference or nonpartisanship except where he desires to vote only for the board of education. No other or further challenge shall be allowed. The challenge shall be considered and decided immediately by the inspectors and the ruling announced.

(c) If neither the challenger nor the challenged voter shall appeal the ruling of the clerk or the inspectors, then the voter shall either be allowed to vote or be prevented from voting in accordance with the ruling. If an appeal is taken to the board of registration, the challenged voter shall be allowed to vote; provided that his ballot is placed in a sealed envelope to be later counted or re-

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jected in accordance with the ruling on appeal. The chief election officer shall promulgate rules and regulations in accordance with chapter 91 to safeguard the secrecy of the challenged voter's ballot.

§11-26 Appeal from ruling on challenge; or failure of clerk to act. In cases where the clerk or the election inspectors ruled on a challenge or the clerk refuses to register an applicant, or refuses to change the register under section 11-22, the person ruled against may appeal from the ruling to the board of registration of his county.

The several boards of registration shall sit in the county seats of their respective counties on election day. The boards shall also sit at such other times as the clerk determines within the various representative districts in their respective counties to hear appeals, provided there are any, from the voters registered within such districts. The boards shall continue their sittings until all appeals have been heard.

Reasonable notices of the sitting of the boards shall be given by publication in newspapers of general circulation in their respective districts or counties. If the appeal is sustained, the board shall immediately certify that finding to the clerk, who shall thereupon alter the register to correspond to the findings of the board, and when necessary, the clerk shall notify the election inspectors of the change in the register.

PART III. BOARDS OF REGISTRATION

§11-41 Boards of registration, appointment, tenure. There shall be four boards of registration: one for the island of Hawaii; one for the islands of Maui, Molokai, Lanai, and Kahoolawe; one for the island of Oahu; and one for the islands of Kauai and Niihau. The boards, which shall consist of three members each, shall be appointed by the governor by and with the advice and consent of the senate; and their terms of office shall be four years.

In no case shall any board consist entirely of members of one political party.

§11-42 Compensation. The members of the board of registration shall be paid \$35 a day for each day of actual service.

§11-43 Powers. Each board of registration is given all of the powers and authority for the summoning and examining of witnesses and the maintenance of order, including the power to punish for contempt and award witness fees in accordance with section 621-7, by law given to circuit courts.

Every member of the board of registration may administer oaths in all cases in which oaths are by law authorized.

§11-44 Records of proceedings. The several boards of registration shall each keep books of record in which full and detailed minutes shall be preserved of all their proceedings. The minutes shall be kept from day to day, and shall contain:

- (1) The date and place of the meeting;

- (2) The names of the members of the board present;
- (3) The name of each person to whom an oath is administered, and, if an examination is held, the names of the witnesses and the substance of the answers of the applicant and of the witnesses;
- (4) The name of any person challenging the right of any applicant to register, the grounds of challenge, the name of the person challenged, and the decision rendered thereon; and
- (5) All other matters of detail which are likely to have a bearing upon any question concerning the action of the board or of any person appearing before it.

PART IV. APPEAL FROM BOARD OF REGISTRATION

§11-51 Appeal from board to supreme court. Any affected person, political party, or any of the county clerks, may, at any time within ten days after the decision of the board of registration, appeal to the supreme court in the manner provided by law for civil appeals to the supreme court from the circuit court, or in such manner as may be provided by law.

§11-52 Hearing; decision final. When the appeal is perfected, the supreme court shall hear the cause either in term time or in vacation as soon thereafter as may be reasonable. The determination by the court of the question shall be final.

§11-53 Decision, notice; action on. Immediately upon rendering a decision upon any appeal, the supreme court shall notify the board of registration from which the appeal was taken; and if the decision reverses the decision of the board, the board shall immediately order the register to be corrected to conform with the decision.

§11-54 Status pending appeal. In case of an appeal from a decision of any board of registration the name of the person shall be placed or remain upon the register pending the decision of the supreme court concerning the same. If the person so registered votes at any election before a decision of the court has been made and acted upon, the ballot of such voter shall be handled in accordance with section 11-25(c).

PART V. PARTIES

§11-61 "Political party" defined. (a) The term "political party" shall mean any party which was on the ballot at the last general election which has not been disqualified by this section and any political group which shall hereafter undertake to form a political party in the manner provided for in sections 11-62 to 11-64; A political party shall be an association of voters united for the purpose of promoting a common political end or carrying out a particular line of political policy and which maintains a general organization throughout the

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State, including a regularly constituted central committee and county committees in each county other than Kalawao.

(b) Any party which does not meet the following requirements shall be subject to disqualification:

- (1) A party must have had candidates running for election at the last general election for any of the offices listed in paragraphs (2) to (6) whose terms had expired. This does not include those offices which were vacant because the incumbent had died or resigned before the end of his term;
- (2) The party received at least ten per cent of all votes cast for any of the offices voted upon by all the voters in the State; or,
- (3) The party received at least ten per cent of all the votes cast in at least fifty per cent of the congressional districts; or,
- (4) The party received at least ten per cent of all the votes cast in at least fifty per cent of the senatorial districts for the office of state senator; or,
- (5) The party received at least ten per cent of all the votes cast in at least fifty per cent of the representative districts for the office of state representative; or,
- (6) The party received at least ten per cent of all the votes cast in at least fifty per cent of the school board districts for the office of board of education.

§11-62 Formation of new parties; petition. Any group of persons hereafter desiring to form a new political party in the State shall file with the chief election officer a petition as hereinafter provided. The petition for the formation of a new political party shall:

- (1) Be filed no less than 120 days prior to the next primary;
- (2) Declare as concisely as may be the intention of signers thereof to form such new political party in the State;
- (3) Contain the signatures of not less than one per cent of the total registered voters of each county of the State at the time of filing.

The petition shall be subject to hearing under chapter 91, if any objections are raised by the chief election officer or any political party. All objections shall be made within ten days after the petition has been filed. If no objections are raised within ten days, the petition shall be deemed approved. If an objection is raised, a decision shall be rendered not later than thirty days after filing of the petition or one hundred days prior to the primary, whichever shall first occur.

The chief election officer may check the names of any persons on the petition to see that they are registered voters and he may check the validity of their signatures. The petition shall be public information upon filing.

§11-63 Party rules, amendments to be filed. All existing and new parties must file their rules with the chief election officer no less than 120 days prior to the next primary. All amendments shall be filed with the chief election officer within thirty days after their adoption. The rules and amendments shall be duly certified to by an authorized officer of the party and upon filing, the rules and amendments thereto shall be a public record.

§11-64 Names of party officers to be filed. All parties shall submit to the chief election officer and the respective county clerks no less than 120 days prior to the next primary, a list of names and addresses of officers of the central committee and of the respective county committees.

§11-65 Determination of party disqualification; notice of disqualification. No less than 120 days after a general election or after this section becomes law, the chief election officer shall determine which parties were qualified to participate in the last general election, but which have become disqualified to participate in the forthcoming elections. Notice of intention to disqualify shall be served by certified or registered mail on the chairman of the state central committee or in the absence of the chairman, any officer of the central committee of the party, as shown by the records of the chief election officer. In addition, notice of intention to disqualify shall also be given by publication in a newspaper of general circulation.

If an officer of the party whose name is on file with the chief election officer desires a hearing on the notice of intention to disqualify, he shall, within ten days after service by mail or within ten days after the last day upon which the notice is published in any county, whichever is later, file an affidavit with the chief election officer setting forth facts showing that the political party is not disqualified to participate in any primary election under section 11-61. If the party does not file the affidavit within the time specified, the notice of intention to disqualify shall constitute final disqualification. A party thus disqualified shall have the right to requalify as a new party by following the procedures of section 11-62.

PART VI. ELECTION INSPECTORS, CLERKS, AND WATCHERS

§11-71 Election inspectors, clerks; precinct requirements. There shall be not less than three election inspectors for each precinct one of whom shall be the chairman; provided that in precincts where more than one voting unit has been established, there shall be two election inspectors for each unit. The chairman of inspectors shall have authority in all units of the precinct. The election inspectors of each unit shall have authority on matters affecting their unit and matters affecting the entire precinct.

To assist the election inspectors in their work, including the counting of ballots, there shall be at least one clerk for each three hundred voters in the precinct or unit, except in precincts using voting machines and in special election precincts. In those precincts using only one voting machine, no clerk shall be assigned. In all precincts, including special election precincts and those with

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more than one voting machine, the chief election officer may assign one or more additional clerks.

So far as reasonably practicable, excepting the chairman, not more than fifty per cent of the inspectors and not more than fifty per cent of the clerks in any precinct shall be of the same political party.

§11-72 Inspectors and clerks; submission of names and assignment; vacancies. All qualified political parties shall submit names for election inspectors and clerks to the chief election officer at least sixty days before the close of filing for any primary or special election. If any party shall fail to submit the required names by the above deadline, the chief election officer may fill such positions with available qualified persons. The chief election officer shall make a list of the inspectors and clerks by representative district and submit it to the governor for his approval at least ten days prior to such election.

In assigning the inspectors and clerks the following criteria shall be followed:

- (1) The inspectors and clerks shall be registered voters of the precinct in which they serve; but if qualified persons in the precinct are not readily available to serve, they may be chosen from without the precinct so long as they reside in the representative district in which the precinct is located.
- (2) The chief election officer may designate more inspectors and clerks than are needed in order to create a pool of qualified inspectors and clerks who may be assigned to fill vacancies or to perform such duties as needed in any precinct in their respective representative districts. If more qualified persons than are needed for a precinct desire to serve in that precinct, service shall be determined by drawing lots.
- (3) No parent, spouse, child, or sibling of a candidate shall be eligible to serve as an inspector or clerk in any precinct in which votes may be cast for the candidate; nor shall any candidate for any elective office be eligible to serve as an inspector or clerk in the same election in which he is a candidate. No candidate who failed of nomination in the primary election shall be eligible to serve as an inspector or clerk in the general election next following.
- (4) The chairman of the election inspectors shall be of the same party as the governor and shall be the first named inspector on the list prepared by the chief election officer. The remainder of the election inspectors and clerks shall be apportioned as follows:
 - (A) The total votes cast, except those cast for nonpartisan candidates, for all of the following offices which were on the ballot in the next preceding general election shall be divided into the total votes cast for all the candidates of each party for such offices: president and vice president, United States senator, United States representative, governor and lieutenant governor, state senator, state representative, and board of education.

- (B) In the event that a party's proportion of votes cast exceeds fifty per cent, its share shall be one-half of the election inspectors and clerks. The remaining one-half shall be divided among the remaining parties in proportion to their respective total of votes cast for the offices set forth in subdivision (A).
- (C) In the case of the above division resulting in parties having fractional positions a whole position shall go to the party with the larger number of votes cast.
- (D) Newly qualified parties may be assigned up to ten per cent of the total positions available at the discretion of the chief election officer.

In case of inability, failure, or refusal of any person so assigned to serve as an inspector or clerk the chief election officer shall, so far as reasonably practicable, appoint a person to fill the vacancy from the same party as that of the person to be replaced. In case of doubt as to the party of an inspector or clerk the chief election officer shall use first, the party membership list; then, the primary registration; then, the person's word for his party affiliation.

§11-73 Instruction of election inspectors, clerks. Not less than five days before any election the chief election officer or clerk in county elections shall conduct a school of instruction, if deemed necessary, for persons designated as election inspectors and clerks of precincts. They shall notify the inspectors and clerks of the time and place of the school of instruction.

All newly assigned inspectors and clerks shall attend the school of instruction. The chairman of the inspectors shall be required to attend a refresher course before each election. It shall be at the discretion of the chief election officer or the county clerk in county elections to require those inspectors and clerks with previous training to attend a school of instruction prior to each election.

No election official shall serve unless he has received some instruction and has been certified by the authorized instructor to that effect. This section shall not prevent the assignment of a person who has not received such instruction or such certificate but who is otherwise qualified, to fill a vacancy among election officials when a qualified certified person is not available.

§11-74 Meetings of inspectors; procedure; oaths. The chairman of the election inspectors shall preside at all meetings of the inspectors. Any decision of the inspectors shall require a majority vote of the inspectors in the unit or precinct.

In all cases under this title, where duties are to be performed by the chairman of the inspectors, the duties may be performed by one of the other inspectors, whenever the chairman is temporarily absent or is otherwise for the time being unable to perform the duties.

Each election inspector may administer any oath in this title provided to be administered by the election inspectors.

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§11-75 Duties of election inspectors. The duties of the election inspectors shall vary with the voting system in use in the precinct. The duties for the particular system shall be assigned by the chief election officer by regulations adopted for such purpose.

§11-76 Compensation. Election inspectors, other than the chairman, shall be paid \$35 for each election. The chairman of the election inspectors for each precinct shall be paid \$10 more per unit than the amount provided for the inspectors for each election; but in no case less than \$45. The clerks shall be paid \$30 for each election.

§11-77 Appointment of watchers; service. (a) Each qualified political party shall be entitled to appoint no more than one watcher in each precinct including absentee precincts in which the candidates of such party are on the ballot. The watchers shall serve without expense to the State or county. All watchers so appointed shall be registered voters.

(b) Each watcher shall be provided with identification from the chief election officer, or by the clerk in the case of county elections, stating his name and the name of the party he represents. On election day the watcher shall present his identification to the chairman of election inspectors of the precinct or precincts where he is to serve.

(c) All watchers for precincts shall be permitted to observe the conduct of the election in the precinct. The watchers may remain in the precinct as long as the precinct is in operation subject to section 19-6.

(d) The watcher shall call the attention of the chairman to any violations of the election laws that he observes. After his attention is called to the violation the chairman shall make an attempt to correct such violation. If the chairman fails to correct the violation, the watcher may appeal to the clerk of the county.

PART VII. CONDUCT OF ELECTIONS

§11-91 Proclamation. No later than ten days prior to the close of filing in elections involving state offices the chief election officer shall issue an election proclamation. In elections involving only county offices the clerk shall issue the proclamation. In elections involving both state and county offices the proclamation may be issued jointly.

The proclamation shall contain a statement of the time and places where, and the purposes for which, the election is to be held, and a designation of the offices and the terms thereof for which candidates are to be nominated or elected. It may also contain any other relevant matter including an offer of rewards for the detection and conviction of offenders against the election laws. The chief election officer or clerk shall cause the election proclamation to be published at least once in a newspaper of general circulation and at least ten days before the close of filing.

§11-92 Precincts; polling places; central polling areas; special election precincts. The chief election officer shall set apart one or more precincts in each representative district and shall provide a suitable and separate polling place in

or for each precinct. Schools, police stations, fire stations, and other publicly owned or controlled buildings shall, whenever possible and convenient, be used as polling places. The chief election officer shall make arrangements for the rental or erection of suitable shelters for this purpose whenever public buildings are not available and shall cause such polling places to be equipped with the necessary facilities for lighting, ventilation, and equipment needed for elections on any island. It shall be lawful for the chief election officer to establish a central polling area for contiguous precincts, notwithstanding district boundaries, when it is convenient and readily accessible for the voters of the precinct involved.

Before the establishment of any central polling area the chief election officer shall notify the political parties and publish a notice once in a newspaper of general circulation. The notice shall state the time and place of a hearing pursuant to chapter 91. After the hearing a regulation shall be issued establishing the central polling place.

No change shall be made in the boundaries of any precinct nor shall a central polling area be established less than ninety days before an election.

Notwithstanding the last paragraph if the chief election officer or the county clerk in county election determines that the number of candidates or issues on the ballot in a special election does not require the full number of established precincts, such precincts may be consolidated for the purposes of the special election into a small number of special election precincts. A special election precinct shall be considered the same as an established precinct for all purposes, including inspector and clerk precinct requirements provided in section 11-71. Ten days prior to the special election the chief election officer or the county clerk shall give public notice in a newspaper of general circulation in the area in which the special election is to be held of the special election precincts and their polling places. Notices of such consolidation shall also be posted on election day at the established precinct polling place giving the location of the special election precinct polling place.

§11-93 Voting units. Immediately after the close of registration of voters preceding any election, the chief election officer shall establish one or more voting units in each precinct polling place. All voting units shall be in the same precinct polling place. In a precinct having more than one voting unit the chief election officer shall designate such unit by the number of its precinct followed by a dash and a letter beginning with the letter "A". The clerk in preparing the list of registered voters shall divide the list, on an alphabetical basis, as equal as possible between or among the voting units.

§11-94 Exemptions of voters on election day. Every voter shall be privileged from arrest on election day while at his polling place and in going to and returning therefrom, except in case of breach of the peace then committed, or in case of treason or felony.

§11-95 Employees entitled to leave on election day for voting. Any voter shall on the day of the election be entitled to absent himself from any service or employment in which he is then engaged or employed for a period of two con-

secutive hours (excluding any lunch or rest periods) between the time of opening and closing the polls. Such voter shall not because of so absenting himself be liable to any penalty, nor shall any deduction be made on account of the absence from his usual salary or wages; provided that the foregoing shall not be applicable to any employee whose hours of employment are such that he has a period of two consecutive hours (excluding any lunch or rest periods) between the time of opening and closing the polls when he is not working for his employer. If, however, any employee fails to vote after taking time off for that purpose the employer, upon verification of that fact, may make appropriate deductions from the salary or wages of the employee for the period during which the employee is hereunder entitled to absent himself from his employment. Presentation of a voter's receipt by an employee to his employer shall constitute proof of voting by the employee. Any person violating this section shall be guilty of an offense under section 19-8.

§11-96 Records; prima facie evidence. Every record made pursuant to law by a board of registration of voters, or the election inspectors, shall be a prima facie evidence of the facts therein set forth, and shall be received as such in any court or tribunal in which the same is offered in evidence.

§11-97 Records open to inspection. The register of voters and all records appertaining to the registry of voters, or to any election, in the possession of the board of registration, the election inspectors, the chief election officer or the clerk shall, at all reasonable times, be open to the inspection of any voter.

§11-98 Forms and materials used in elections. Books, blanks, records, certificates, and other forms and materials required by this title shall be of uniform character suitable for the voting system in use and shall be prescribed by the chief election officer after consultation with the clerks involved.

§11-99 Members of Congress, applicability of election laws. The nomination and election of a senator or representative to Congress shall be in conformity to the laws applicable to the election of members of the state legislature except as expressly otherwise provided or where in conflict with federal law.

PART VIII. BALLOTS

§11-111 Official and specimen ballots. Ballots issued by the chief election officer as to state elections and by the county clerk as to county elections are official ballots. The chief election officer or county clerk in the case of county elections where paper ballots or electronic ballot cards are used, shall have printed sufficient copies of each of the official ballots to be used at the various precincts so that at least one copy can be posted for each voting unit. These copies will have printed across their face in large bold letters, and with ink of a color plainly contrasting to the color of the paper used, the word "Specimen". In preparing specimens of electronic ballot cards, the chief election officer or clerk shall use material other than the actual data processing card. The copies of the specimen ballots shall be forwarded to the election inspectors with the official ballots. The inspectors shall post the specimen ballots near the entrance to the voting place where they may be easily seen by the voters prior to voting.

§11-112 Contents of ballot. A ballot shall contain the names of the candidates, the offices for which they are running, and the district in which the election is being held. The name of the candidate may be printed with the Hawaiian or English equivalent or nickname, if the candidate so requests in writing at the time his nomination papers are filed. Candidates' names, including the Hawaiian or English equivalent or nickname, shall be set on one line in as large type as the length of the majority of the names will permit. The remaining candidates' names may be set in such smaller type as the length of each name requires, based upon the available space on one line on the ballot.

The candidate shall, at the time of filing his nomination papers, state his party affiliation or his nonpartisanship. In multirace districts the ballot shall state that the voter shall not vote for more than the number of seats available or the number of candidates listed where such number is less than the seats available.

A ballot shall bear no word, motto, device, sign, or symbol other than allowed in this title.

§11-113 Presidential ballots. (a) In presidential elections, the names of the candidates for president and vice president shall be used on the ballot in lieu of the names of the presidential electors, and the votes cast for president and vice president of each political party shall be counted for the presidential electors and alternates nominated by each political party.

The chairman of the state central committee of each qualified political party shall submit the names of the presidential and vice presidential candidates to the chief election officer by August 31 of the election year in an affidavit stating that both the state and the national party are in agreement as to the candidates for president and vice president. A "national party" as used in this section shall mean a party established and admitted to the ballot in at least one state other than Hawaii or one which is determined by the chief election officer to be making a bonafide effort to become a national party. If there is no national party or the national and state parties or fractions in either the national or state party do not agree on the presidential and vice presidential candidates, the chief election officer may determine which candidates' names shall be placed on the ballot or may leave the candidates' names off the ballot completely.

(b) All candidates for president and vice president of the United States shall be qualified for inclusion on the general election ballot under either of the following procedures:

(1) In the case of candidates of political parties which have been qualified to place candidates on the primary and general election ballots, the appropriate official of such party shall file a sworn application with the office of the lieutenant governor not later than sixty days prior to the general election, which shall include:

(A) The name and address of each of the two candidates;

(B) A statement that each candidate is legally qualified to serve under the provisions of the United States Constitution;

- (C) A statement that the candidates are the duly chosen candidates of the party, giving the time, place and manner of such selection.
- (2) In the case of candidates of parties or groups not qualified to place candidates on the primary or general election ballots, the person desiring to place such names on the general election ballot shall file with the office of the lieutenant governor a sworn application not later than sixty days prior to the general election which shall include:
 - (A) The information included under (1), (A) and (B) above, and (C) where applicable;
 - (B) A petition signed by one per cent of the registered voters of the State, which petition shall contain the names of the candidates, a statement that the persons signing intend to support such candidates, the address of each signatory and the date of his signature.

Each applicant, and the candidates names, shall be notified in writing of his eligibility or disqualification for placement on the ballot within ten days of filing or fifty days prior to the presidential election whichever is less.

If the applicant, or any other party, individual or group with a candidate on the presidential ballot, objects to the finding of eligibility or disqualification he or they may, within five days after the finding, file a request in writing with the office of the lieutenant governor for a hearing on the question. Such hearing will be called within ten days of the receipt of the request and will be conducted in accord with chapter 91. A decision will be issued within five days of the conclusion of the hearing.

§11-114 Order of offices on ballot. The order of offices on a ballot shall be arranged substantially as follows: first, president and vice president of the United States; next, United States senators; next, United States house of representatives; next, governor and lieutenant governor; next, state senators; next, state representatives; next, board of education; and next, county offices. The color, size, weight, shape, and thickness of the ballot shall be determined by the chief election officer.

§11-115 Arrangement of names on the ballot. The names of the candidates shall be placed upon the ballot for their respective offices in alphabetical order subject to section 11-118 and the limitations of the voting system in use, and except for the case of the candidates for vice president and lieutenant governor in the general election whose names shall be placed immediately below the name of the candidate for president or governor of the same political party.

In the case of paper ballots or electronic ballot cards where the names of the candidates are printed and the voter records his vote on the face of the ballot, the following format shall be used: A horizontal line shall be ruled between each candidate's name and the next name, except between the names of presidential and vice presidential candidates and candidates for governor and lieutenant governor of the same political party in the general election. In such case the horizontal line will follow the name of the candidates for vice president and lieutenant governor of the same political party, thereby grouping the candi-

dates for president and vice president and governor and lieutenant governor of the same political party within the same pair of horizontal lines. Immediately after all the names, on the right-hand side of the ballot, two vertical lines shall be ruled, so that in conjunction with the horizontal lines, a square shall be formed opposite each name and its equivalent, if any. In case of the candidates for president and vice president and governor and lieutenant governor of the same political party, only one square shall be formed opposite their set of names and this square which will be the same size as the others on the ballot shall be centered adjacent to the right-hand side of the rectangle containing the names of the two candidates. The squares shall be of sufficient size to give ample room in which to designate the choice of the voter in the manner prescribed for the voting system in use. All of the names upon a ballot shall be placed at a uniform distance from the left-hand edge and close thereto, and shall be of uniform size and print subject to section 11-112.

§11-116 Checking ballot form by candidates and parties. Facsimiles of all ballot layouts prior to printing shall be available for viewing by the candidates and the parties at the office of the chief election officer and the county clerk as soon after the close of filing as they are available. Such layout facsimiles shall show the type faces used, the spelling and placement of names, and other information on the ballot.

§11-117 Withdrawal of candidates; disqualification; death; notice. Any candidate may withdraw within twenty-four hours after the close of filing, if he is a candidate for member of Congress or for state office, by giving notice in writing to the chief election officer, or if he is a candidate for a county office, by giving notice in writing to the county clerk of the county in which the candidate was seeking nomination or election.

On receipt of the notice of withdrawal the chief election officer or the clerk shall inform the chairman of the political party of which the person withdrawing was a candidate. When a candidate dies or is disqualified after the close of filing and the ballots have been printed, the chief election officer or the clerk shall either order the candidate's name stricken from the ballot or that a notice of the disqualification or death be prominently posted at the polling place on election day.

In no case shall the filing fee be refunded after filing.

§11-118 Vacancies; new candidates; insertion of names on ballots and notice at polling places. In case of death, withdrawal, or disqualification of any party candidate after filing, the vacancy so caused may be filled by the appropriate committee of the party. The party shall be notified by the chief election officer or the clerk in the case of a county office immediately after the death, withdrawal, or disqualification. If the party fills the vacancy, and so notifies the chief election officer or clerk within three days after the vacancy occurs, but no later than thirty days before a primary or special election or twenty days before a general election the name of the replacement shall be printed in an available and appropriate place on the ballot, not necessarily in alphabetical order. If the substitute candidate is submitted later than the time limits set

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forth above it will be in the discretion of the chief election officer or the clerk whether the name of any substitute candidate is placed upon the ballot by re-printing, overprinting, the use of rubber stamps, or such other means as the chief election officer or county clerk may deem satisfactory. The election inspectors shall post a notice at the polling place of the name of the substitute candidate and the office sought. No substitution shall be made within ten days of any election unless the chief election officer or the clerk determines that the name can be placed on the ballot in some practical and effective manner. If no substitution is made the candidacy involved shall be declared vacant.

§11-119 Printing; quantity. The ballots shall be printed by order of the chief election officer or the county clerk in the case of county elections. In any state or county election the chief election officer on agreement with the county clerk may consolidate the printing contracts for similar types of ballots where such consolidation will result in lower costs.

Each precinct shall receive a sufficient number of ballots based on the number of registered voters and the expected spoilage in the election concerned. A sufficient number of absentee ballots shall be delivered to each county clerk not less than ten days prior to the date of any election. Each county clerk shall, as soon as may be practical after the election, certify to the chief election officer the actual number of ballots delivered to absentee voters.

§11-120 Distribution of ballots; record. The chief election officer or the county clerk in county elections shall forward the official ballots, specimen ballots, and other materials to the election inspectors of the various precincts. They shall be delivered and kept in a secure fashion in accordance with rules and regulations promulgated by the chief election officer. In no case shall they arrive later than the opening of the polls on election day.

A record of the number of ballots sent to each precinct shall be kept by the chief election officer or the clerk.

PART IX. VOTING PROCEDURES

§11-131 Hours of voting. The polls shall be opened by the election inspectors at 7:00 a.m. of the election day and shall be kept open continuously until 6:00 p.m. of that day. If, at the closing hour of voting, any voter desiring to vote is standing in line outside the entrance of the polls with the desire of entering and voting, but due to the polling place being overcrowded has been unable to do so, he shall be allowed to vote irrespective of the closing hour of voting. No voter shall be permitted to enter or join the line after the prescribed hour for closing the polls. If all of the registered voters of the precinct have cast their votes prior to the closing time, the polls may be closed earlier but the votes shall not be counted until after closing time unless allowed by the chief election officer.

§11-132 Admission within polling place. The election inspectors shall, prior to opening the polls, set apart an area of one thousand feet in radius around the polling place to prevent interference with the conduct of the election. No person, other than the election officials, watchers, if any, the candi-

dates, and such voters as are for the time being actually engaged in voting or going to and returning therefrom, shall be permitted within the area so set apart during the time appointed for voting, except that public sidewalks, alleys, roads, streets, and highways falling within the one thousand foot radius shall be open to persons and vehicles passing through. Any other person who remains or loiters within the area so set apart during the time appointed for voting shall be guilty of a misdemeanor. If a voter is manifestly physically disabled, the voter may be assisted by anyone through the area so set apart.

The chief election officer may allow nonvoter groups to observe the election for educational purposes. The chief election officer shall use his discretion in granting such permission and insure that such persons whose applications are granted may observe the election at designated precincts in such a manner that they will not interfere with the election process.

§11-133 Voting booths; placement of ballot boxes. The election inspectors shall provide sufficient booths within the polling place at or in which the voters may conveniently cast their ballots. The booths shall be so arranged that in casting the ballots the voters are screened from the observation of others.

The inspectors shall place ballot boxes, where used, at a point convenient for voters to cast their ballots after voting and where the boxes may be observed by the election officials.

§11-134 Ballot boxes. The chief election officer shall provide suitable ballot boxes for each polling place. The boxes shall be of material selected by the chief election officer. They shall be smooth inside and out and shall have a hinged lid fastened securely by a good lock or locks. In the center of the lid there shall be an aperture of the appropriate size for the voting system used.

§11-135 Procedure upon opening polls. At the opening of the polls for election, the chairman of the inspectors shall, in the presence of bystanders, publicly open the ballot boxes and expose them to all persons present, that it may be seen that they are empty. They shall then be closed and locked and on no account opened till the polls are closed, except in those precincts using electronic ballots where the ballot boxes may be opened at the direction of the chief election officer for the early delivery of ballots to the counting center.

At the opening of the polls the seals of the ballot containers or packages shall be publicly broken and opened by the chairman.

A card of instruction detailing the method of marking ballots and of voting shall be immediately posted at or in each voting booth provided for by section 11-133; and not less than three cards shall be immediately posted in conspicuous places outside the polling place.

§11-136 Poll book, identification, voting. Every person upon applying to vote shall sign his name in the poll book prepared for that purpose. This requirement may be waived by the chairman of the election inspectors if for reasons of illiteracy or blindness or other physical disability the voter is unable to write. Every person shall provide identification if so requested by an election inspector or clerk.

After signing the poll book and receiving his ballot, the voter shall pro-

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ceed to the voting booth to vote according to the voting system in use in his precinct. The election inspectors may, and upon request shall, explain to the voter the mode of voting.

§11-137 Secrecy; removal or exhibition of ballot. No person shall look at or ask to see the contents of the ballot of any voter, except as provided in section 11-139, nor shall any person within the polling place attempt to influence a voter in regard to whom he shall vote for. When a voter is in the voting booth for the purpose of marking or casting his ballot, no other person shall, except as provided in section 11-139, be allowed to enter the booth or to be in a position from which he can observe how the voter marks or casts his ballot.

In those precincts using paper ballots or electronic ballot cards no person shall take a ballot out of the polling place except for the early pick up of electronic ballot cards for delivery to the counting center. After voting the voter shall leave the voting booth and deliver his ballot to the election inspector in charge of the ballot boxes. The inspector shall make certain that he has received the correct ballot and no other and then shall drop the ballot into the ballot box. If any person having received a ballot leaves the polling place without first delivering the ballot to the inspector as provided above, or wilfully exhibits his ballot, except as provided in section 11-139, after the ballot has been marked, such person shall forfeit his right to vote, and the chairman of the inspectors shall cause a record to be made of the proceeding.

§11-138 Time allowed voters. A voter shall be allowed to remain in the voting booth for five minutes, and having voted the voter shall at once emerge and leave the voting booth. If he refuses to leave when so requested by a majority of election inspectors after the lapse of five minutes, he shall be removed by the election officers. Once a voter has completed his voting and emerged from the booth, he shall not be permitted to re-enter.

§11-139 Assistance of illiterate or disabled voter. Any voter who, by reason of illiteracy or blindness or other physical disability, is unable to mark his ballot, shall, if he so requests, receive the assistance of two election inspectors who are not of the same political party, or of any qualified voter whom he may designate, in the marking thereof. Before rendering assistance or permitting assistance to be rendered, the inspectors shall be satisfied that the physical disability exists.

The inspectors shall enter in writing in the record book the following:

- (1) The voter's name;
- (2) The fact that the voter cannot read the names on the ballot, if that is the reason for requiring assistance, and otherwise, the specific physical disability which requires him to receive assistance; and
- (3) The name or names of the person or persons furnishing the assistance.

§11-140 Spoiled ballots. In precincts using paper ballots and electronic ballot cards, if a voter spoils a ballot or ballot card, he may obtain another upon returning the spoiled one. The ballot returned shall be canceled immedi-

ately, and the reasons for the cancellation endorsed thereon and signed by the chairman of inspectors.

PART X. VOTE DISPOSITION

§11-151 Vote Count. Ballots shall be counted in accordance with this part and the voting system used in the precinct according to law. In precincts using paper ballots or electronic ballot cards, a ballot shall be counted even though a particular race on that ballot has less names voted for than are in the race. If a ballot has more names voted for in a race than can be elected in that race, the race shall not be counted, but the rest of the ballot shall be counted.

§11-152 Method of Counting. Immediately after the close of the polls, except in precincts using voting machines, the chairman of inspectors shall open the ballot box. In those precincts using electronic ballot cards the cards shall be taken to the counting center. The inspectors at the precinct and the officials at the counting center shall proceed to count the votes as follows:

- (1) The whole number of ballots shall first be counted to see if their number corresponds with the number of ballots cast as recorded by the inspectors.
- (2) If the number of ballots corresponds with the number of persons recorded by the inspectors as having voted, the inspectors or officials shall then proceed to count the vote cast for each candidate.
- (3) If there are more ballots or less ballots than the record calls for the inspectors or officials shall proceed as directed in section 11-153.

The officials at an electronic ballot card counting center may start to count the ballot cards upon receipt prior to the closing of the polls; provided there shall be no printout by the computer or other disclosure of the number of votes cast for a candidate or on a question prior to the closing of the polls.

§11-153 More or less ballots than recorded. If there are more ballots than the poll book calls for, this shall be an overage, if less, it shall be an underage. The election officials shall make a note of this fact on a form to be provided by the chief election officer. After making this notation the election officials shall proceed to count the ballots in the manner provided by law. The form recording the overage or underage shall be sent directly to the chief election officer or the clerk in county elections separate and apart from the other election records.

As soon after the election as possible the chief election officer or the clerk shall make a list of all precincts in which an overage or underage occurred and the amount of the overage or underage. This list shall be posted in the office of the chief election officer or the clerk in county elections and the clerk's office in counties other than the city and county of Honolulu in elections involving state candidates. The list shall be a public record.

An election contest may be brought under part XI, if the overage or underage in any district could affect the outcome of an election.

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§11-154 Records, etc.; disposition. The final duty of the inspectors in the operation of the precinct shall be to gather all records and supplies delivered to them and return them to the sending official, either the chief election officer or the county clerk.

The voted ballots shall be kept secure and handled only in the presence of representatives not of the same political party in accordance with regulations promulgated for the various voting systems. After the election and the results of the election have been certified as final by the chief election officer or the county clerk in county elections the ballots shall be sealed in a container. Thereafter this container shall be unsealed and resealed only in the presence of a circuit court judge.

The ballots and other election records may be destroyed by the chief election officer or county clerk when all elected candidates have been qualified, sworn, and seated.

§11-155 Certification of results of election. On receipt of certified tabulations from the election officials concerned, the chief election officer or county clerk in county elections shall compile, certify, and release the election results. The number of persons to be elected receiving the highest number of votes in any election district shall be declared to be elected.

§11-156 Certificate of election, form. The chief election officer or county clerk shall deliver certificates of election to the persons elected as determined under section 11-155. These certificates shall be delivered only after the filing of expense statements by the person elected in accordance with part XII and after the expiration of the time for bringing an election contest. If there is an election contest the certificate shall be delivered only after a final determination in the contest has been made and the time for an appeal has expired. The certificate shall be substantially in the following form:

CERTIFICATE OF ELECTION

I,, chief election officer (county clerk) of Hawaii (county), do hereby certify thatwas on theday of19...., duly elected a (name of office)for the district for a term expiring on theday of, A.D. 19....

Witness my hand thisday of, A.D. 19....

.....

Chief Election Officer (County Clerk)

§11-157 In case of tie. In case of the failure of an election by reason of the equality of vote between two or more candidates, the tie may be decided by lot, under the supervision of the chief election officer or county clerk in the case of county elections. When an election is decided by lot, the candidates shall agree in a signed statement to the use of a lot. If the candidates agree, they shall be bound by the lot and shall not bring an election contest under part XI after the

drawing of the lot. Each candidate shall be present at the drawing of the lot together with two witnesses to be selected by him.

PART XI. ELECTION CONTESTS

§11-171 Applicability of this part. This part shall apply whenever a contested election is subject to determination by a court of competent jurisdiction in the manner provided by law.

§11-172 Contests for cause; summons. Any candidate, or qualified political party directly interested, or any thirty voters of any election district, may file a complaint in the circuit court of the circuit in which the complainant or complainants reside. The complaint shall set forth any cause or causes, such as provable fraud, overages, or underages, that could cause a difference in the election results. The complaint shall also set forth any reasons for reversing, correcting, or changing the decisions of the election inspectors or officials at a counting center for electronic ballots.

The complaint shall be filed in the office of the clerk of the circuit court within seven days following a primary election or within thirty days following the general or special election proposed to be contested and shall be accompanied by a deposit of \$25 for costs of court. The clerk shall issue to the defendants named in the complaint a summons to appear before the circuit court within five days after service in the case of a primary election or in the case of a general or special election within ten days after service thereof.

§11-173 Contests for small vote differences. In a general or special election a complaint may be filed as set forth in section 11-172 if the difference in the votes cast for the winning and losing candidates for an office eligible to be voted on by one-third of the voters of the entire State appears to be one-eighth of one per cent or less of the total ballots cast for the office, or in the case of votes cast for the candidates for any other state or county office the difference in the votes cast for the winning and losing candidates appears to be one-fourth of one percent or less of the total ballots cast for any other state and county office, then the circuit court, upon the filing of a complaint, shall order a recount of a part of the ballots cast as agreed upon by the candidates involved or upon the absence of an agreement, then all of the ballots cast for the office where the contest exists. In cases where several candidates are to be elected to a multiple office, if the difference mentioned appears between the votes received by the lowest among the winning candidates and those received by the highest among the losing candidates, the circuit court shall likewise order a recount of the questioned ballots. The lowest and highest among the winning and losing candidates may include more than one candidate, provided that they are within the difference mentioned.

Summons shall be issued as provided in section 11-172.

§11-174 Hearing, judgment. (a) In primary election contests the court shall hear the contest in a summary manner and at the hearing the court shall cause the evidence to be reduced to writing and shall within four days follow-

ing the return give judgment fully stating all findings of fact and of law. The judgment shall decide what candidate was nominated or elected, as the case may be, in the manner presented by the petition, and a certified copy of the judgment shall forthwith be served on the chief election officer or the county clerk, as the case may be, who shall place the name of the candidate declared to be nominated on the ballot for the forthcoming general election. The judgment shall be conclusive of the right of the candidate so declared to be nominated; provided, that this subsection shall not operate to amend or repeal section 12-41.

(b) In cases involving general and special elections the complaint shall be heard by the circuit court in which the complaint was filed as soon as it reasonably may be heard. On the return day, the court, upon its motion or otherwise, may direct summons to be issued to any person who may be interested in the result of the proceedings.

At the hearing, the court shall cause the evidence to be reduced to writing and shall give judgment, stating all findings of fact and of law. The judgment may invalidate the general or special election on the grounds that a correct result cannot be ascertained because of a mistake or fraud on the part of the election inspectors; or decide that a certain candidate, or certain candidates, received a majority or plurality of votes cast and were elected. If the judgment should be that the general or special election was invalid, a certified copy thereof shall be filed with the governor, and he shall duly call a new election to be held within sixty days after the judgment is filed. If the court shall decide which candidate or candidates have been elected a copy of that judgment shall be served on the chief election officer or county clerk, who shall sign and deliver to the candidate or candidates certificates of election, and the same shall be conclusive of the right of the candidate or candidates to the offices.

§11-175 Powers of courts; costs. The circuit court may compel the attendance of witnesses, punish contempts, and do whatsoever else may be necessary fully to determine the proceedings, and enforce its decrees therein. The court may make such special rules as it may find necessary or proper. The costs shall be the same as in trials in the circuit courts at chambers.

§11-176 Appeal. In contests involving a general or special election the decision of the circuit court concerning any question properly involved in any complaint and proceeding shall be final and binding upon all parties unless an appeal is prosecuted to the supreme court within ten days after the decision of the circuit court in the manner provided by law for civil appeals to the supreme court from the circuit court, or in such other manner as may be provided by law. The supreme court, upon determination of any appeal, may enter any judgment the circuit court would be authorized to enter.

PART XII. EXPENSES**A. Election Expenses**

§11-181 Capital equipment. The State shall pay for all voting system capital equipment. This shall include, but not be limited to voting machines, electronic ballot pads, and initial computer programs.

§11-182 Election expenses when no county elections. All expenses, including expenses attributable to registration of voters by the county clerk, for state elections conducted in any county which do not involve elections for county offices shall be borne by the State and paid out of such appropriations as may be made by the legislature for election purposes.

§11-183 Election expenses when no state elections. All expenses for county elections which do not involve state offices shall be borne by the county and paid out of such appropriations as may be made by the council for election purposes.

§11-184 Election expenses and supervision in combined state and county elections. Election expenses in elections involving both state and county offices shall be borne as set forth below.

(1) The State shall pay for and supervise:

- (A) Inspectors and clerks;
- (B) Instruction of inspectors and clerks;
- (C) Boards of registration;
- (D) Polling place costs other than supplies: installation rentals, ballot boxes, voting booths, custodians, telephones, and maintenance;
- (E) Other equipment such as ballot transport containers;
- (F) Temporary election clerks hired to do strictly state work; and
- (G) Extraordinary voter registration costs.

(2) The county shall pay for and supervise:

- (A) Normal voter registration, voters list maintenance, and all printing connected with voter registration, including printing of the voters list;
 - (B) Temporary election clerks hired to do strictly county work; and
 - (C) Maintenance of existing voting machines, including parts, freight, storage, programming, and personnel.
- (3) The remaining election expenses shall be divided in half between the State and the county involved. These expenses shall include but not be limited to:
- (A) Polling place supplies;
 - (B) All printing, including ballots;

- (C) Temporary election clerks not including voting machine programmers doing work for both the State and county; and
- (D) All other costs for which the State or county are not specifically responsible relating to the operation of voting machines, electronic voting systems, and other voting systems except paper ballots to include but not be limited to real property rentals, equipment rentals, personnel, mileage, telephones, supplies, publicity, computer programming, and freight.

The responsibility for supervising the above functions shall be determined by the chief election officer where the supervision of such functions have not been assigned by the legislature.

Any future expenses not presently incurred under any voting system now in use or to be used shall be assigned to paragraphs (1), (2), or (3) above by the chief election officer upon agreement with the county clerks or by the legislature.

B. Candidates Expenses

§11-191 Definitions. When used in this part:

“Candidate” shall mean any person who files nomination papers for a public or constitutional office which is elected by the voters of this State at any election.

“Office” shall mean any public or constitutional office including but not limited to the following: U.S. senator, U.S. representative, state senator and representative, board of education official, delegates to the constitutional convention, and county officers.

“Party” shall mean any qualified political party.

“Committee” shall mean any organization, association, or person spending money for or against any candidate, party, question, or issue.

§11-192 Political literature, advertisements. All political advertisements in any media, newspaper, radio, television, and all campaign literature published or circulated prior to or on the day of the election shall state who paid for such literature or advertisement and the address of such person, party, or committee.

Any person, business, or corporation publishing, showing, broadcasting, or circulating political advertisements or campaign literature that violate this section shall be guilty of a violation of section 19-8.

§11-193 Filing of expense statement. Each party, committee, including presidential committees, and each candidate for a state or national office, excepting presidential candidates not residing within the State, shall file with the chief election officer, and each party, committee, and each candidate for a county office shall file with the clerk of the county, an itemized statement of his or their expense, by, for, or on behalf of a party, candidate for election, or question or issue at the election showing each amount expended, the purpose or object for which each expenditure was made, and the person or persons to

whom made. The itemized statement shall also contain the amount contributed and the name and address of each contributor who has contributed in excess of \$500 toward the election of the candidates or to a party or committee. The statements shall be sworn to by each candidate or an authorized person for a party or committee making the expenditures and shall be open to public inspection.

In case of any candidate, or committee supporting any candidate, who was not nominated at the primary election as a candidate for the general election, the itemized statement of expenses shall be filed within twenty days following the primary election. In the case of any candidate nominated at the primary election, or committee whose candidate was nominated at the primary election, as candidate for the general election, and in the case of parties or committees for or against any question or issue, the itemized statement of expenses for each election shall be prepared separately but filed together within twenty days following the general election.

§11-194 Contribution of corporate funds; unlawful. It shall be illegal for any corporation, incorporated under the laws of the State, or doing business therein, or any officer or agent thereof, from corporate funds, to make or authorize any contributions, directly or indirectly, to campaign funds or for political purposes, in any election held in the State. Any person or corporation violating this section shall be fined or imprisoned under section 19-5.

§11-195 Anonymous contributions; unlawful. No person shall make a payment of his own money or of another person's money to any candidate, party, or committee in connection with a nomination or election in any other name than that of the person who in truth supplies such money; nor shall any candidate, party, or committee knowingly receive such payment or enter or cause the same to be entered in his accounts in another name than that of the person by whom it was actually furnished.

This section shall not apply to amounts that aggregate less than \$500. Any anonymous contribution received by a candidate, party, or committee shall not be used or expended, but shall be returned to the donor, if his identity is known. If no donor is found, the contribution shall escheat to the State in the case of candidates for a state office and parties or committees backing such candidate or for or against a state issue on the ballot and to the county in the case of candidates for a county office and parties or committees backing such candidate or for or against a county issue on the ballot. In the case where an anonymous contribution is made to a party organization and no donor is found, the contribution shall escheat to the state if it is a state organization and to the county if it is a county organization.

Any person violating this section shall be guilty of a misdemeanor.

CHAPTER 12

PRIMARY ELECTIONS

PART I. NOMINATION; DETERMINATION OF CANDIDATES

§12-1 Application of chapter. All candidates for elective office, except as provided in section 14-21, shall be nominated in accordance with this chapter and not otherwise.

§12-2 Primary held when; candidates only those nominated. The primary shall be held at the regular polling place for each precinct on the first Saturday of October in every even numbered year.

No person shall be a candidate for any general election unless he has been nominated in the primary next prior thereto.

§12-3 Nomination papers: format; limitations. The name of no candidate shall be printed upon any official ballot to be used at any primary or special election unless a nomination paper shall have been filed in his behalf and in the name by which he is commonly known. The nomination papers shall be in a form prescribed by the chief election officer containing substantially the following information:

- (1) A statement by the registered voters of the district from which the candidate is running signing the form that they are members of the party of the candidate or nonpartisans for a nonpartisan candidate;
- (2) A statement by the registered voters that they nominate the candidate for the office on the nomination papers;
- (3) The residence address and county in which the candidate resides;
- (4) The name of the candidate and the office for which he is running, which name and office is to be placed on the nomination papers by the chief election officer or the county clerk in the case of county elections prior to releasing the form to the candidate;
- (5) Space for the names of the registered voters signing the form and their district or districts and precinct or precincts;
- (6) A certification by the candidate that he will qualify under the law for the office he is seeking by the date of the next election, and that he is a registered voter and a resident in the district from which he is running;
- (7) A certification by a party candidate that he is a member of the party, that he believes in the principles and policies of that party, that if elected he will carry out the provisions and pledges of the political platform of the party and will abide by the party's rules and regulations;
- (8) The name the candidate wishes inserted on the ballot and the post office address of the candidate.

No signatures shall be counted, unless they are upon papers having the format set forth above, written or printed thereon, and if there are separate sheets to be attached to the papers, the sheets shall have the name of the person and the office for which he is running placed thereon by the chief election officer or the clerk. These nomination papers and separate sheets shall be provided by the chief election officer or the clerk in the case of county offices.

Nomination papers shall not be filed in behalf of any person for more than one party or for more than one office; nor shall any person file nomination papers both as a party candidate and as a nonpartisan candidate.

The office for which the candidate is running may not be changed from that indicated on the nomination papers and separate sheets. If the candidate wishes to run for an office different from that for which the nomination papers state, he may request appropriate nomination papers from the chief election officer or clerk and have them signed by the required number of voters.

§12-4 Nomination papers: qualifications of signers. No person shall sign the nomination papers of more than one candidate, partisan or nonpartisan, for the same office, unless there is more than one office in a class in which case no person shall sign papers for more than the actual number of offices in a class. Nomination papers shall be construed in this regard according to priority of filing, and the name of any person appearing thereon shall be counted only so long as this provision is not violated, and not thereafter.

No name on nomination papers shall be counted, unless the signer is a registered voter, qualified to vote for the candidate at the next election. To determine if the signers belong to the party they state on the papers, the chief election officer or clerk may use lists prepared in accordance with section 11-24.

§12-5 Nomination papers: number of signers. Nomination papers for candidates for members of Congress, governor, lieutenant governor, and the board of education shall be signed by not less than twenty-five registered voters of the State or of the Congressional district or school board district from which the candidates are running in the case of candidates for the United States House of Representatives or for the board of education.

Nomination papers for candidates for either branch of the legislature and for county office shall be signed by not less than fifteen registered voters of the district or county or subdivision thereof for which the person nominated is a candidate.

§12-6 Nomination papers: time for filing; fees. Nomination papers shall be filed as follows:

- (1) For members of Congress, state, and county offices, with the chief election officer or county clerk in case of county offices by 4:30 p.m. of the forty-fifth day prior to the day for holding the primary or special election (but if such day is a Saturday, Sunday, or holiday then by 4:30 p.m. of the first working day immediately preceding); provided that any state candidate from the counties of Hawaii, Maui, and Kauai may file his declaration of candidacy with his respective

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county clerk. The clerk shall transmit to the office of the chief election officer the state candidate's declaration of candidacy without delay.

- (2) There shall be deposited with each nomination a fee on account of the expenses attending the holding of the primary or special election which shall be paid into the treasury of the State, or the county, as the case may be, as a realization:
 - (A) For governor, lieutenant governor, United States senators, and United States representatives - \$75;
 - (B) For mayor - \$50; and
 - (C) For all other offices - \$25.
- (3) Upon the receipt by the chief election officer or the county clerk of the nomination papers of a candidate, the day, hour, and minute when it was received shall be endorsed thereon.

§12-7 Filing of oath. The name of no candidate for any office shall be printed upon any official ballot, in any election, unless the candidate shall have taken and subscribed to the following written oath or affirmation, and filed the oath with his nomination papers.

The written oath or affirmation shall be in the following form:

"I,, do solemnly swear and declare, on oath that if elected to office I will support and defend the Constitution and laws of the United States of America, and the Constitution and laws of the State of Hawaii, and will bear true faith and allegiance to the same; that if elected I will faithfully discharge my duties as(name of office)..... to the best of my ability; that I take this obligation freely, without any mental reservation or purpose of evasion; So help me God."

Upon being satisfied as to the sincerity of any person claiming that he is unwilling to take the above prescribed oath only because he is unwilling to be sworn, he may be permitted, in lieu of the oath, to make his solemn affirmation which shall be in the same form as the oath except that the words "sincerely and truly affirm" shall be substituted for the word "swear" and the phrases "on oath" and "So help me God" shall be omitted. Such affirmation shall be of the same force and effect as the prescribed oath.

The oath or affirmation shall be subscribed before the officer administering the same, who shall endorse thereon the fact that the oath was subscribed and sworn to or the affirmation was made together with the date thereof and affix the seal of his office or of the court of which he is a judge or clerk.

It shall be the duty of every notary public or other public officer by law authorized to administer oaths to administer the oath or affirmation prescribed by this section and to furnish the required endorsement and authentication.

§12-8 Nomination papers: challenge. All nomination papers filed in conformity with section 12-3 shall be deemed valid unless objection is made thereto by the chief election officer or the county clerk in the case of county of-

fices or by a registered voter in writing. Such objection is to be made within 48 hours after the close of filing or the next succeeding working day. In case objection is made, notice thereof shall be given including notification by registered or certified mail to the candidate objected thereto. All objections shall be decided by the chief election officer or county clerk within 48 hours after they are made. All objections which are upheld shall be placed in writing by the deciding official if so requested by the candidate affected.

§12-9 List of candidates. As soon as possible but not later than five days after the close of filing the chief election officer shall transmit to each county clerk and the county clerk shall transmit to the chief election officer certified lists containing the names of all persons, the office for which each is a candidate, and their party designation, or designation of nonpartisanship, as the case may be, for whom nomination papers have been duly filed in his office and who are entitled to be voted for at the primary or special election.

PART II. BALLOTS

§12-21 Official party ballots. There shall be only one primary ballot for each party; provided that ballots of no two parties shall be of the same color or tint. Before being finally printed sample ballots or proofs thereof shall be approved by the chief election officer or county clerk in county elections as to uniformity of size, weight, shape, and thickness and differentiation of color or tint for the respective party ballots.

At the top of the primary ballot shall be printed in large capital letters, words designating the ballot; if a Democratic ballot, the designating words shall be "DEMOCRATIC PRIMARY BALLOT"; if a Republican ballot, the designating words shall be "REPUBLICAN PRIMARY BALLOT", and in the like manner for each other party.

§12-22 Official nonpartisan ballots. There shall be only one primary ballot containing the names of all nonpartisan candidates to be voted for and the offices for which they are candidates. At the top of the ballot shall be printed in large capital letters the words "NONPARTISAN PRIMARY BALLOT". The ballot shall, in all other respects, conform to the requirements relative to official party ballots.

§12-23 Board of education ballots. There shall be a ballot containing only the names of all board of education candidates to be voted for. At the top of the ballot shall be printed in large capital letters the words "SCHOOL BOARD BALLOT". The ballot shall, in all other respects, conform to the requirements relative to official party ballots.

PART III. BALLOT SELECTION

§12-31 Selection of party ballot. No person shall be entitled to vote at a primary election who shall refuse to state his party preference or nonpartisanship to the election inspectors, unless he wishes to vote only for the board of education. If the person desiring to vote is not challenged, one of the inspectors shall give him one and only one official primary ballot of the party designated,

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or the official nonpartisan primary ballot, or the official board of education ballot, if so designated.

In any primary election in the year 1970 and thereafter, no person shall be entitled to select a primary ballot of a type other than that which he had selected at the next preceding primary election in which he voted, unless, prior to three months preceding the primary election in which such ballot is to be selected, he has registered with the county clerk to change his party to another party or to a nonpartisan designation. If a person did not vote in any preceding primary election or if, a person's party is disqualified under section 11-61 or he voted in a board of education race only, or he is a newly registered voter, he shall be entitled to select any one primary ballot.

In all primary elections the inspectors shall note the voter's party selection where the voters list indicates no previous party selection. This information shall be forwarded to the county clerk.

PART IV. ELECTION RESULT

§12-41. Result of election. The person or persons receiving the greatest number of votes at the primary as a candidate of a party for an office shall be the candidate of the party at the following general election but not more candidates for a party than there are offices to be elected; provided that any candidate for the board of education or for any county office who is the sole candidate for that office at the primary election, or who is only opposed by a candidate or candidates running on his own ticket and is not opposed by any candidate running on any other ticket, nonpartisan or otherwise, and is nominated at the primary shall, after the primary be deemed and declared to be duly and legally elected to the office for which he is a candidate at the primary regardless of the number of votes received by him. Any nonpartisan candidate receiving at least ten per cent of the total votes cast for the office for which he is a candidate at the primary, or a vote equal to the lowest vote received by the partisan candidate who was nominated in the primary, shall also be a candidate at the following election; provided, that when more nonpartisan candidates qualify for nomination than there are offices to be voted for at the general election, there shall be certified as candidates for the following election those receiving the highest number of votes, but not more candidates than are to be elected.

CHAPTER 13

BOARD OF EDUCATION

§13-1 Board members; number; districts, composition of. The board of education shall consist of eleven members. Eight members shall be elected by the registered voters of the respective school board districts and three members shall be elected at-large in the city and county of Honolulu. The school board districts, the at-large district, and the number of members to be elected from each shall be as follows:

First school board district (Hawaii): the island of Hawaii comprising the first, second, third, fourth, and fifth representative districts, two members;

Second school board district (Maui): the islands of Maui, Molokai (including the county of Kalawao), Lanai, and Kahoolawe comprising the sixth and seventh representative districts, one member;

Third school board district (Honolulu): that portion of the island of Oahu comprising the eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, and eighteenth representative districts, one member;

Fourth school board district (Central Oahu): that portion of the island of Oahu comprising the nineteenth and twenty-second representative districts, one member;

Fifth school board district (Leeward Oahu): that portion of the island of Oahu comprising the twentieth and twenty-first representative districts, one member;

Sixth school board district (Windward Oahu): that portion of the island of Oahu comprising the twenty-third and twenty-fourth representative districts, one member;

At-large district (Oahu): the city and county of Honolulu, three members; and

Seventh school board district (Kauai): the islands of Kauai and Niihau comprising the twenty-fifth representative district, one member.

§13-2 Qualifications. No person shall be eligible for election or appointment to the board of education unless he is a voter of the school board district or the at-large district from which he is to be elected or appointed. No member of the board shall hold any other public office under the state or county governments. The term "public office", for the purposes of this section, shall not include notaries public, reserve police officers of emergency organizations for civilian defense or disaster relief.

§13-3 Election of members; primary election. Except as otherwise provided by this chapter, the candidates for the board of education shall be nominated and elected in the manner prescribed by this title.

Members running for the board of education shall have their names placed on the ballot as follows:

- (1) The names of all board candidates arranged alphabetically and grouped by party and nonpartisanship shall be placed on each party and nonpartisan ballot;
- (2) Separate ballots for board candidates shall be printed in accordance with section 12-23 for those voters who do not wish to state either their party preference or nonpartisanship at the primary election.

Each voter in the primary shall be entitled to vote for the number of seats available for such school board districts, and, as the case may be, for such at-large district. Each voter shall only vote for the candidates of one party or nonpartisan. If a ballot is marked contrary to this paragraph, the race shall not be counted.

§13-4 Board members; general election. The names of the candidates in each party and the nonpartisan candidates on the primary ballot receiving the greatest number of votes, not to exceed the number of members to which such board district and, as the case may be, such at-large district are entitled shall appear on the ballot for the general election with other candidates for office subject to section 12-41 in the following manner:

- (1) The name of the candidate with the highest number of votes in the primary election shall be listed at the top of the race on the general election ballot;
- (2) Other candidates shall be listed in descending order according to the number of votes they received in the primary election.

§13-5 Board members; term, vacancies. The term of office of members of the board shall be four years beginning on the day of the general election of the year in which they are elected and ending on the day of the second general election after their election. Members of the board may be re-elected without restriction as to the number of terms.

Any vacancy that may occur through any cause other than the expiration of the term of office shall be filled by the governor in accordance with section 17-3. The appointee shall be a nonpartisan if the person he succeeds was a nonpartisan.

CHAPTER 14

PRESIDENTIAL ELECTIONS

PART I. PRESIDENTIAL SHORT BALLOT

§14-1 Definition of state. As used in this part "state" includes the District of Columbia.

§14-2 Eligibility of new residents to vote. Each citizen of the United States who, immediately prior to his removal to this State, was a citizen of another state and who has been a resident of this State for less than one year prior to a presidential election is entitled to vote for presidential and vice presidential electors, as provided for in section 11-113, at that election, but for no other offices, if:

- (1) He otherwise possesses the substantive qualifications to vote in this State, except the requirements of residence and registration; and
- (2) He complies with this chapter.

§14-3 Application for presidential ballot by new resident. A person desiring to qualify under this chapter in order to vote for presidential and vice presidential electors is not required to register but on or before the last date for registration for a general election, as provided for in section 11-24, shall make an application in the form of an affidavit executed in duplicate in the presence of the clerk of the county.

The affidavit shall contain a statement by the person containing substantially the following information:

- (1) He is a citizen of the United States;
- (2) His last residence of registration before becoming a resident of this State;
- (3) The date the person became a resident of this State;
- (4) The address at which the person now lives;
- (5) That the person shall be at least twenty years of age prior to the day of the next presidential election.

The affidavit shall also contain a statement that the person has not and will not vote otherwise than by this ballot at the presidential election for which the application is being made.

§14-4 Mailing duplicate application. The county clerk shall immediately mail to the appropriate official of the state in which the applicant last resided the duplicate of the application.

§14-5 Filing and indexing information from other states. The county clerk shall file each duplicate application or other official information received by him from another state indicating that a former resident of this State has made application to vote at a presidential election in another state and shall maintain an alphabetical index thereof, for a period of one year after the election.

§14-6 Printing and delivery of ballot. The chief election officer shall print a special ballot containing the names of the candidates for president and vice president of the United States and shall distribute them to the clerk of each county not less than thirty days prior to the next presidential election. These ballots shall be used only by voters qualified to vote under this chapter.

If satisfied that the application is proper and that the applicant is qualified to vote under this chapter the county clerk or official of the absentee precinct shall deliver to the applicant a special ballot for presidential and vice presidential electors, as provided for above, not sooner than thirty days nor later than the day prior to the next presidential election.

§14-7 Voting by new residents. (a) The applicant, upon receiving the ballot for presidential and vice presidential electors shall mark the ballot in the presence of the county clerk or in the absentee precinct in a manner that the official cannot know how the ballot is marked. The voter shall then deposit and seal it in an envelope furnished by the clerk or official of the absentee precinct.

(b) There shall be imprinted on the outside of the envelope a statement substantially as follows:

CERTIFICATION OF NEW RESIDENT VOTER

I have qualified as a new resident voter in this State to vote for presidential and vice presidential electors. I have

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not applied nor do I intend to apply for an absentee voter's ballot from the state from which I have removed. I have not voted and will not vote otherwise than by this ballot.

Dated:

(Signature of Voter)

Witness:

(County Clerk or Inspector)

The voter shall sign the certification upon the envelope as set forth above, and shall then deliver the sealed envelope to the county clerk or an official of the absentee precinct who shall keep the envelope in his office or the absentee precinct until election day when the ballot shall be counted as provided by law for other absentee ballots.

§14-8 List of applicants open for public inspection. The county clerk shall keep open to public inspection a list of all persons who have applied under this chapter to vote as new residents with their names, addresses, and application dates.

§14-9 Delivery and deposit of voted ballots. (a) The county clerk shall prepare and deliver the ballots for new residents to the appropriate election officials in the manner prescribed by law for absentee ballots. The ballots shall be processed in accordance therewith.

(b) The appropriate election officials shall record the new resident voter's name with a notation designating him as a new resident voting for presidential and vice presidential electors only.

§14-10 Challenge of new resident's vote. The vote of any new resident may be challenged for cause. Challenges shall be handled in the manner provided for by law.

PART II. PRESIDENTIAL ELECTORS

§14-21 Nomination of presidential electors and alternates; certification; notification of nominees. In each year when electors of president and vice president of the United States are to be chosen, each of the political parties shall hold a state party convention pursuant to the constitution, bylaws, and rules of the party; and nominate as candidates for its party as many electors, and a first and second alternate for each elector, of president and vice president of the United States as the State is then entitled. The electors and alternates shall be registered voters of the State. The names and addresses of the nominees shall be certified by the chairman and secretary of the convention of the respective parties and submitted to the chief election officer no later than August 31 of the same year. The chief election officer upon receipt thereof, shall immediately notify each of the nominees for elector and alternate elector of his nomination.

§14-22 Contested nominations of presidential electors and alternates. If more than one certificate of choice and selection of presidential electors and alternate electors of the same political party is filed with the chief election officer, he, as chairman of the contested presidential electors' committee hereby constituted, shall notify the state comptroller and attorney general, who are the remaining members of the committee, of the date, time, and place of the hearing to be held for the purpose of making a determination of which set of electors and alternate electors were lawfully chosen and selected by the political party. Notice of the hearing shall be given to the chairman of the state central committee of each political party, contestants for the positions of electors and alternate electors by written notice, and to all other interested parties by publication at least once in a newspaper of general circulation. A determination shall be made by the committee by majority vote no later than October 30 of the same year and the determination shall be final. Notice of the results shall be given to the nominees duly determined to have been chosen. The committee shall have all the powers enumerated in section 11-43.

§14-23 Time for election, number to be chosen. In each presidential election year there shall be elected at large, at the general election, by the voters of the State, as many electors and alternates of president and vice president of the United States as the State is then entitled to elect, in the manner provided under section 11-113. The electors and the alternates must be residents of the State. The election shall be conducted and the results thereof determined in conformity with the laws governing general elections except as otherwise provided.

§14-24 Certificate of election, notice of meeting. On the last Monday in the month of the election, or as soon as the returns have been received from all counties in the State, if received before that time, the chief election officer shall certify to the governor the names of the presidential electors and alternates of the same political party as the candidates for president and vice president receiving the highest number of votes as elected as presidential electors and alternates. Thereupon the governor shall in accordance with the laws of the United States, communicate by registered mail under the seal of the State of Hawaii to the administrator of general services of the United States, the certificates of persons elected as presidential electors, setting forth the names of the electors and the total number of votes cast for each elector. The chief election officer shall thereupon, together with a notice of the time and place of the meeting of the electors, cause to issue and transmit to each elector and alternate a certificate of election signed by the governor in substantially the following form:

**CERTIFICATE OF ELECTION OF
PRESIDENTIAL ELECTORS**

I,, Governor of the State of Hawaii, do hereby certify that, a member of the party, was on the day of, 19...., duly elected a Presidential Elector for the State of Hawaii for the presidential election of 19....

CERTIFICATE OF ELECTION OF ALTERNATE PRESIDENTIAL ELECTOR

I,Governor of the State of Hawaii, do hereby certify that ..
....., a member of theparty, was on theday of
....., 19...., duly electedAlternate Presidential Elector for Presi-
dential Electorfor the State of Hawaii for the presidential elec-
tion of 19....

§14-25 Duties of the governor. On or before the day of the meeting of the electors the governor shall deliver to the electors a list of the names of electors, and he shall perform any other duties relating to the presidential electors which are required of him by laws of the United States.

§14-26 Assembly of electors at state capital; time. The electors chosen shall assemble at the state capital on the first Monday after the second Wednesday in December next following their election, at two o'clock in the afternoon.

§14-27 Filling vacancies of presidential electors. In case of the death or absence of any elector chosen, or if the number of electors is deficient for any other reason, the vacancy or vacancies shall be filled by the alternates in the order of their numerical designation for their respective electors causing the vacancy or vacancies, and in the event that vacancy or vacancies still exist, then the electors present shall select from the members of the same political party as many persons as will supply the deficiency. Certificates for the alternates or substitutes as presidential electors shall be issued by the governor.

§14-28 Convening and voting for president and vice president; party vote. The electors, when convened, if both candidates are alive, shall vote by ballot for that person for president and that person for vice president of the United States, who are, respectively, the candidates of the political party which they represent, one of whom, at least, is not an inhabitant of this State.

§14-29 Naming persons voted for in ballots, separate ballots. The electors shall name in their ballots the person voted for as president, and in separate ballots the person voted for as vice president.

§14-30 Lists of persons voted for and number of votes, certification, transmission to president of the senate. The electors shall separately list the persons voted for as president and as vice president, respectively, and the number of votes for each, which lists they shall sign, certify, seal, and transmit by mail, one copy to the seat of the government of the United States, directed to the president of the senate of the United States, and make such other disposition of the lists as required by law.

§14-31 Compensation and mileage of electors, amounts. Each presidential elector shall receive \$50 for his services, plus the reasonable cost of transportation from his voting residence in the State to the state capital and return. Their accounts shall be certified to by the chief election officer and audited by the state comptroller, and shall be payable out of the general fund.

CHAPTER 15

ABSENTEE VOTING

§15-1 Who may vote by absentee ballot. Any voter who will be unable to appear at his polling place during the hours of voting at any election because of absence from the island, county, or district in which he is registered may cause his vote to be cast by absentee ballot subject to this chapter.

§15-2 Request for absentee ballot. Any person entitled to vote under this chapter, except in cases covered by section 15-12, may request an absentee ballot in person or in writing from the county clerk not more than sixty days prior to the election. If the person is within the State he shall make his request not less than five days prior thereto. If the person is without the State he shall make his request not less than ten days prior thereto.

The request shall include any information which will facilitate the location of his voting precinct, the establishment of his right to a ballot, and the address to which he wishes his ballot forwarded. The request, when made for any primary election, may include an additional request for an absentee ballot to be voted at any election immediately following the primary, provided the person so indicates in his request and gives reason therefor to the satisfaction of the county clerk.

§15-3 Delivery of ballots. Immediately upon receipt of a request within the time limit specified in section 15-2, the county clerk shall examine the records to ascertain whether or not the voter is lawfully entitled to vote as requested. As soon as official ballots are printed and available, the clerk shall mail in a forwarding envelope, via airmail if necessary, or deliver in person, if the voter appears at the office of the clerk, an official ballot and other materials prescribed in section 15-4.

§15-4 Reply envelope; instructions. The county clerk shall enclose the ballot in an unsealed reply envelope to be furnished by him and which shall be in the form prescribed by the chief election officer. In addition, the county clerk shall prepare printed instructions regarding the manner of marking and returning the absentee ballot including instructions that the reply envelope must contain a legible postmark which includes a date to insure being counted as a late absentee vote in general elections. The clerk shall furnish a copy of the printed instructions and information setting forth the precinct and district in which the voter is entitled to vote. The reply envelope shall bear upon the face thereof the name, official title, and post office address of the county clerk and, in the lower left corner, the words "Postmaster please place a legible postmark including a date on this envelope" and "Absentee Ballot Enclosed". The back of the reply envelope shall contain a statement to be subscribed to by the voter which affirms the fact that he is the person voting.

§15-5 Return of ballot; voting by absentee voter at polls prohibited. The reply envelope shall be:

- (1) Mailed to reach the county clerk issuing the absentee ballot not later

than 4:30 p.m. on the day before a primary election nor later than 12 o'clock noon on the sixth day following a general election; or

- (2) Delivered other than by mail to the county clerk issuing the absentee ballot not later than 4:30 p.m. on the day before a primary or general election.

In returning the envelope the voter may place a certificate of mailing in the envelope to establish the time of mailing.

No person having voted an absentee ballot pursuant to this section shall be entitled to cast a ballot at the polls on election day.

§15-6 Absentee ballot container. Each absentee ballot shall be placed in an absentee ballot container or containers. The container shall be securely sealed except for an opening sufficient to permit deposit of the reply envelopes and shall be sufficiently marked with the name and official title of the county clerk and the words "This container holds absentee ballots and must be opened only pursuant to law". The opening of the container shall be securely sealed at the close of each business day by the clerk or the election inspectors of the absentee precinct. The container itself shall be secured in the office of the clerk.

No person shall open the absentee ballot container before the day provided for in section 15-8 or 15-9. Any person opening the absentee ballot container or tampering with the container before the prescribed time shall be guilty of an election offense under section 19-6.

§15-7 Absentee voter precinct. An absentee precinct shall be established at the office of the respective county clerks or a place designated by the clerk in the county seat. The absentee precinct shall be established under the precinct requirements of chapter 11; provided section 11-72 shall be applied to the absentee precinct instead of to the representative district. The chief election officer shall determine if the absentee precinct should meet before election day to handle the absentee voters who are voting in person and if there should be more than one such precinct in the county. The chief election officer shall also determine the number of inspectors and clerks needed to man the precinct.

All absentee ballots received in the mail or delivered to the county clerk shall be counted in the absentee precinct. In counties using electronic ballot cards an absentee precinct shall be established at the counting center on election day to count the absentee ballots. In no case shall the reply envelope be opened prior to election day.

The chief election officer or the county clerk in county elections may appoint deputy county clerks to handle absentee voting in remote areas where there is no county clerk's office. Deputy county clerks shall also be appointed in those areas where past experience has indicated that it would be a hardship on the voters to require them to appear at the clerk's office.

§15-8 Receipt and disposition of absentee ballots. Upon receipt of the envelope marked "Absentee Ballot Enclosed" from any person voting under this chapter, the county clerk or the inspectors of the absentee precinct shall time stamp the reply envelope and deposit it in the correct absentee ballot con-

tainer. On election day the container shall be opened by the inspectors of the absentee precinct. Prior to opening the envelopes and counting the ballots, the envelopes shall be checked for the following:

- (1) Sufficiency of statement;
- (2) If the signature corresponds with the absentee request or register;
- (3) If the voter is a registered voter and has complied with the requirements of section 11-15 or 11-16;
- (4) If the envelope appears to be tampered with.

If an absentee precinct is established at the county clerk's office prior to election day the election inspectors of the precinct shall check the envelopes for the above requirements prior to depositing them in the container. All envelopes that have been marked as questionable prior to election day shall be rechecked on election day.

If any of the above requirements is not met, the inspector shall mark across the face of the envelope "Questionable" giving the reasons therefor and the envelope shall be placed unopened in a separate container and disposed of as prescribed for ballots in section 11-154. If the above requirements are met, the envelope may be opened and the ballot counted as prescribed by law for the voting system in use.

In those absentee precincts using paper ballots, counting of absentee votes may begin after noon of election day. In those absentee precincts using electronic ballot cards the absentee ballot container shall be taken unopened to the counting center, opened, the envelopes rechecked, and the ballots counted on election day. In no case, however, shall the results of the absentee count become publicly known before the polls have officially closed. In absentee precincts using voting machines the machine shall not be read until the polls have officially closed.

Any person violating this section shall be guilty of an election offense under section 19-6.

§15-9 Receipt and disposition of late absentee ballots. In a general election, if the mailed reply envelope is received after 4:30 p.m. on the day before the election, or at any time thereafter up to 12 o'clock noon on the sixth day following the election, the envelope shall be placed unopened in a late absentee ballot container. The container shall be securely sealed in accordance with section 15-6. The container shall be kept securely in the county clerk's office until noon on the sixth day following the general election.

On the sixth day after the election the election inspectors for the absentee precinct shall meet and publicly open the container in the clerk's office or in the case of electronic ballot cards take the container to the counting center to be opened.

The inspectors shall examine the reply envelopes in accordance with paragraphs (1) to (4) of section 15-8. In addition, if the postmark is illegible or dated later than that required by section 15-5, or it is found that the voter has already voted, the envelope shall be marked "Questionable" giving the reason therefor and set aside unopened with the other questionable envelopes to be

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disposed of as provided for ballots in section 11-154. The inspectors shall determine valid dates in a manner prescribed by the chief election officer which shall take into account time zones and the International Date Line. After examination of the envelopes the ballots shall be counted.

Any reply envelopes received by the county clerk after noon of the sixth day shall be kept unopened and disposed of pursuant to section 11-154.

§15-10 Death of voter prior to opening of polls. Whenever, prior to the casting of absentee ballots, it is made to appear by due proof to the county clerk or election inspectors that any voter who has marked and forwarded an absentee ballot has died prior to the opening of the polls on the date of election, the ballot of the voter shall be disposed of in the manner provided in section 15-8 for questionable ballots. The casting of any such ballot shall not invalidate the election.

§15-11 Ballots; where voting machines are used. In all precincts in which voting machines are used sections 15-1 to 15-10 shall apply; provided, that the number and type of absentee ballots to be printed shall be determined at the discretion of the officer charged with printing and furnishing them. The officer may use reasonable facsimiles of the sample ballot used in voting machine precincts.

§15-12 Voters unable to appear at the polls on election day for medical, physical, or religious reasons. Any voter covered by this section shall be entitled and enabled to vote in such manner as may be prescribed by rules and regulations promulgated by the chief election officer; provided that any voter who by reason of physical disability is unable to mark his ballot shall be authorized to receive assistance in marking thereof.

- (1) Any voter competent to vote at any election shall be allowed to vote under this section if he falls in the following categories:
 - (A) Confined in any hospital;
 - (B) Confined in any public institution for the care of indigents or aged persons; or
 - (C) Confined in any leprosy institution or settlement located on the same island in which the person is registered to vote, or if the person is registered to vote in the county of Kalawao, and due to physical ailments or infirmities is unable to attend the polls.
- (2) Any voter who is confined to his home by reason of illness or physical disability which will prevent him from attending the polls or who by reason of any religious belief, ruling, doctrine or standard will be prevented from attending the polls.

CHAPTER 16

VOTING SYSTEMS

PART I. GENERAL PROVISIONS

§16-1 Voting systems authorized. The chief election officer may adopt, experiment with, or abandon any voting system authorized under this chapter or to be authorized by the legislature. These systems shall include, but not be limited to voting machines, paper ballots, and electronic voting systems. All voting systems approved by the chief election officer under this chapter are authorized for use in all elections for voting, registering, and counting votes cast at the election.

Voting systems of different kinds may, at the discretion of the chief election officer, be adopted for different precincts within the same district. The chief election officer may provide for the experimental use at any election, in one or more precincts, of a voting system without a formal adoption thereof and its use at the election shall be as valid for all purposes as if it had been permanently adopted; provided that if a voting machine is used experimentally under this paragraph it need not meet the requirements of section 16-12.

§16-2 Voting system requirements. All voting systems adopted under this chapter by the chief election officer or the legislature shall satisfy the following requirements:

- (1) It shall secure to the voter secrecy in the act of voting;
- (2) It shall provide for voting for all candidates of as many political parties as may make nominations, nonpartisans, and for or against as many questions as are submitted;
- (3) It shall correctly register or record and accurately count all votes cast for any and all persons, and for or against any and all questions.

PART II. VOTING MACHINES

§16-11 Definitions. A “voting machine” system shall be a means of electrically, mechanically, or electronically recording and counting votes upon being cast.

“Protective counter” shall mean a separate counter built into the voting machine which cannot be reset, which records the total movement of the operating lever.

§16-12 Voting machines; requirements. No voting machines shall be installed for use in any election in the State unless it shall satisfy the following requirements:

- (1) It shall permit the voter to vote for as many persons for an office as he is lawfully entitled to vote for, but no more;
- (2) It shall prevent the voter from voting for the same persons more than once for the same office;

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- (3) It shall permit the voter to vote for or against any question he may have the right to vote on, but no other;
- (4) It shall be so equipped that the election officials can lock out all rows except those of the voters' party or nonpartisans, or the board of education as provided in section 13-3, by a single adjustment on the outside of the machine;
- (5) It shall be provided with a protective counter or protective device whereby any operation of the machine before or after the election will be detected;
- (6) It shall be provided with a counter which shall show at all times during an election how many persons have voted;
- (7) It shall be provided with a mechanical model, illustrating the manner of voting on the machine, suitable for the instruction of voters.

PART III. PAPER BALLOTS

§16-21 Definition. A paper ballot system shall be a means of recording votes which are counted manually.

§16-22 Marking. The method of marking a paper ballot shall be prescribed by the chief election officer by rules and regulations promulgated in accordance with chapter 91. He shall prescribe a uniform method of marking the ballots in all precincts in a county and for absentee voting by paper ballot.

§16-23 Folding ballot; voting. Before delivering a ballot to a voter, the election inspector shall fold it in the manner prescribed by the clerk of the several counties, so as to conceal the contents thereof. Upon receiving the folded ballot the voter shall proceed into one of the voting booths provided for the purpose, and shall mark his ballot in the manner prescribed by section 16-22.

He shall then refold the ballot in the same folds as it was in when handed to him by the chairman of inspectors, and shall, without delay and without showing or in any way displaying the contents of the ballot to anyone except as provided in section 11-139, leave the booth and deliver the folded ballot to the election inspector in charge of the ballot boxes. The inspector shall not open or unfold the ballot, but shall examine the ends of the ballot sufficiently to be satisfied that there is but one ballot enfolded, whereupon the ballot shall be immediately dropped into the proper box by the inspector.

No ballot enclosed in an envelope or wrapper of any kind shall be received or counted.

§16-24 Count, public. Insofar as the limits of the room in which the voting takes place reasonably allow, no person shall be prevented from attending the counting of the ballots on election day, unless it is necessary to preserve the peace.

§16-25 Order and method of counting. Each ballot shall be counted and finished as to all the candidates thereon before counting a second and subsequent ballots. Except as provided in section 11-71, the ballots shall be counted by teams in the following manner only: by one inspector or clerk announcing the vote in a loud clear voice, one inspector or clerk tallying the vote, one inspector or clerk watching the inspector announcing the vote and one inspector or clerk watching the inspector tallying the vote. The election officer doing the announcing or tallying and the election officer watching him shall not be of the same political party.

§16-26 Questionable ballots. A ballot shall be questionable if:

- (1) A ballot contains any mark or symbol whereby it can be identified, or any mark or symbol contrary to the provisions of law; or
- (2) Two or more ballots are found in the ballot box so folded together as to make it clearly evident that more than one ballot was put in by one person, the ballots shall be set aside as provided below.

Each ballot which is held to be questionable shall be endorsed on the back by the chairman of inspectors with his name or initials, and the word "questionable". All questionable ballots shall be set aside uncounted and disposed of as provided for ballots in section 11-154.

§16-27 Number of blank and questionable ballots; record of. In addition to the count of the valid ballots, the election inspectors shall, as to each separate official ballot, also determine and record the number of totally blank ballots and the number of questionable ballots.

§16-28 Declaration of results. When the election inspectors have ascertained the number of votes given for each candidate they shall make public declaration of the whole number of votes cast, the names of the persons voted for, and the number of votes for each person.

§16-29 Tally sheets. The tally sheets used in counting the ballots cast shall be marked and handled in a secure fashion prescribed in rules and regulations promulgated by the chief election officer in accordance with chapter 91.

PART IV. ELECTRONIC VOTING

§16-41 Definition. An electronic voting system shall be a means of recording votes which are counted by automatic tabulating equipment.

§16-42 Electronic voting requirements. When used at primary elections, the automatic tabulating equipment of the electronic voting system shall count only votes for the candidates of one party, or nonpartisans, or the board of education as provided in section 13-3. In all elections the equipment shall reject all votes for an office when the number of votes therefor exceeds the number which the voter is entitled to cast.

§16-43 Ballot or ballot card handling. In every case where the ballots or ballot cards are handled by election officials, from the time the ballots or ballot cards are delivered to the several precincts to the time they are returned to the

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chief election officer or county clerk in county elections for disposition upon completion of the tabulation, they shall be handled in the presence of not less than two election officials. These officials shall be assigned in accordance with sections 11-71 and 11-72.

§16-44 Counting centers. The chief election officer or county clerk in county elections shall designate official observers to be present at the counting center or centers during the counting of electronic ballot cards. These official observers shall be chosen as follows:

- (1) No less than one official observer designated by each political party;
- (2) No less than one official observer designated by the majority of all nonpartisan candidates, if any;
- (3) No less than one official observer designated by the various news media;
- (4) Interested persons not connected with any party or candidate may be designated as official observers. The chief election officer in state elections, the county clerk in county elections, and the chief election officer and county clerk in combined elections shall designate such interested persons; and
- (5) Such additional official observers as space and facilities permit.

The chief election officer or county clerk shall give all official observers reasonable notice of the time of and place where counting of the ballots shall be held. No person shall be permitted in the counting center without the written authorization of the chief election officer or county clerk.

CHAPTER 17

VACANCIES

§17-1 United States Senator. When a vacancy occurs in the office of United States Senator the vacancy shall be filled for the unexpired term at the following state general election, provided that the vacancy occurs not less than sixty days prior to the date of the primary for nominating candidates to be voted for at the election; otherwise at the state general election next following. The chief election officer shall issue a proclamation designating the election for filling vacancy. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election and qualification of the person duly elected to fill the vacancy and shall be a registered member of the same political party as the senator causing the vacancy. All candidates for the unexpired term shall be nominated and elected in accordance with this title.

§17-2 United States Representative. When a vacancy occurs in the representation of this State in the United States House of Representatives, the chief election officer shall issue a proclamation for an election to fill the vacancy unless the unexpired term is for less than six months. The proclamation shall be

issued not less than sixty days before the election to fill the vacancy and shall contain the date, time, and places where the special election is to be held, the time within which nomination papers shall be filed, the time for transmitting to county clerks the notice designating the offices for which candidates are to be elected, the time for transmitting to county clerks lists of candidates to be voted for at the special election and such other matters as provided for in section 11-91 and which are not inconsistent with this section. The special election shall be conducted and the results ascertained so far as practicable, in accordance with this title.

§17-3 State senator. Whenever any vacancy in the membership of the state senate occurs, the term of which ends at the next succeeding general election, the governor shall make an appointment to fill the vacancy for the unexpired term and the appointee shall be of the same political party as the person he succeeds.

In the case of a vacancy, the term of which does not end at the next succeeding general election:

- (1) If it occurs ten days or more prior to the close of filing for the next succeeding primary election, the vacancy shall be filled for the unexpired term at the next succeeding general election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. All candidates for the unexpired term shall be nominated and elected in accordance with this title. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election of the person duly elected to fill the vacancy. The appointee shall be of the same political party as the person he succeeds.
- (2) If it occurs less than ten days prior to the close of filing for the next succeeding primary but ten or more days prior to the next succeeding general election, the vacancy shall be filled for the unexpired term at the next succeeding general election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. All candidates for the unexpired senate term shall be nominated by the county committees of the parties and elected in accordance with this title. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election of the person duly elected to fill such vacancy. The appointee shall be of the same political party as the person he succeeds.
- (3) If it occurs less than ten days prior to the next succeeding general election, the governor shall make an appointment to fill the vacancy for the unexpired term and the appointee shall be of the same political party as the person he succeeds.

§17-4 State representatives. Whenever any vacancy in the membership of the state house of representatives occurs, the governor shall make an appointment to fill the vacancy for the unexpired term and the appointee shall be of the same political party as the person he succeeds.

CHAPTER 18

DISTRICTING

§18-1 Congressional districts: reapportionment. The congressional districts and the number of members to be elected from each shall be as follows:

First congressional district: the eleventh through the seventeenth representative districts and precincts 7 and 13 of the tenth representative district, one representative to the Congress of the United States.

Second congressional district: The first through the ninth representative districts, the eighteenth representative district and precincts 1 through 6, 8 through 12, and 14 through 19 of the tenth representative district, one representative to the Congress of the United States.

CHAPTER 19

ELECTION OFFENSE

§19-1 Classes of offenses. Except as otherwise provided, offenses against the election laws contained in this title are divided into two classes: "election frauds" and "misdemeanors".

§19-2 Perjury. Any person who, knowing that he is not entitled to register or to vote, registers or votes, shall be guilty of perjury; and any person taking any oath in this title prescribed or authorized to be administered and wilfully making oath to any false statement of fact, or wilfully making a false answer to any question put to him thereunder, shall be guilty of perjury.

§19-3 Election frauds. The following persons shall be deemed guilty of an election fraud:

- (1) Every person who, directly or indirectly, personally or through another, gives, procures, or lends, or agrees or offers to give, procure, or lend, or who endeavors to procure, any money or office or place of employment or valuable consideration to or for any elector, or to or for any person for an elector, or to or for any person in order to induce any elector to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, or who does any such act on account of any person having voted or refrained from voting for any particular person at any election.
- (2) Every person who advances or pays, or causes to be paid, any money to, or to the use of, any other person, with the intent that the money, or any part thereof, shall be expended in bribery at any election, or for any purpose connected with or incidental to any election; or who knowingly pays or causes to be paid any money to any person in the

discharge or repayment of any money wholly or partly expended in bribery at any election, or for any purpose connected with or incidental to any election.

- (3) Every elector who, before, during or after any election, directly or indirectly, personally or through another, receives, agrees, or contracts for any money, gift, loan, or valuable consideration, office, place, or employment for himself or any other person for voting or agreeing to vote, or for refraining to vote or agreeing to refrain from voting, or for voting or refraining to vote for any particular person or party.
- (4) Every person who, directly or indirectly, personally or through another, makes use of, or threatens to make use of, any force, violence, or restraint; or inflicts or threatens to inflict any injury, damage, or loss in any manner, or in any way practices intimidation upon or against any person in order to induce or compel the person to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, at any election, or on account of the person having voted or refrained from voting, or voted or refrained from voting for any particular person or party; or who by abduction, distress, or any device or contrivance impedes, prevents, or otherwise interferes with the free exercise of the elective franchise.
- (5) Every person who, at any election, votes or attempts to vote in the name of any other person, living or dead, or in some fictitious name, or who, having once voted, votes or attempts to vote again, or knowingly gives or attempts to give more than one ballot for the same office at one time of voting.
- (6) Every person who, before or during an election, knowingly publishes a false statement of the withdrawal of any candidate at the election.
- (7) Every person who induces or procures any person to withdraw from being a candidate at an election in consideration of any payment or gift or valuable consideration; or of any threat; and every candidate who withdraws from being a candidate in pursuance of such inducement or procurement.
- (8) Every public officer by law required to do or perform any act or thing with reference to any of the provisions in any law concerning elections contained, who wilfully fails, neglects, or refuses to do or perform the same, or who wilfully performs it in such a way as to hinder the objects thereof, or who is guilty of any wilful violation of any of the provisions thereof.
- (9) Any person wilfully tampering or attempting to tamper with, disarrange, deface, or impair in any manner whatsoever, or destroy any voting machine while the same is in use at any election, or who, after the machine is locked in order to preserve the registration or record of any election made by the same, tampers or attempts to tamper with any voting machine.

§19-4 Penalties; disqualification for, removal from office; reports of convictions to chief election officer. Every person found guilty of an election fraud shall be fined not less than \$100 nor more than \$1,000, or imprisoned at hard labor not more than two years, or both. Besides the punishment, the person shall be disqualified from voting and from being elected to, holding or occupying any office, elective or appointive. If the person so convicted holds any office, either elective or appointive, at the time of the conviction, the office shall at once and without mention in the sentence or other proceeding be vacated by the conviction. The judge or magistrate before whom the conviction is had shall immediately transmit to the chief election officer and to the respective county clerks the name of the person, the offense of which he has been convicted and the sentence of the court.

§19-5 Contributions by corporations; unlawful. Any corporation violating section 11-194 by contribution of corporate funds shall upon conviction be fined in a sum ten times the amount of the contribution made, but in no case to be less than \$1,000. Any corporation officer violating section 11-194 by contribution of corporate funds shall upon conviction be fined in a sum ten times the amount of the contribution made, but in no case less than \$1,000, or imprisoned for not more than four years, or both.

§19-6 Misdemeanors. The following persons shall be guilty of a misdemeanor:

- (1) Any person who offers any bribe or makes any promise of gain, or with knowledge of the same permits any person to offer any bribe or make any promise of gain for his benefit, to any voter to induce him to sign a nomination paper, and any person who accepts any bribe or promise of gain of any kind as consideration for signing the same, whether the bribe or promise of gain be offered or accepted before or after the signing.
- (2) Any person who wilfully tears down or destroys or defaces any election proclamation or any poster or notice or list of voters or card of instructions or specimen ballot, issued or posted by authority of law.
- (3) Any person printing or duplicating or causing to be printed or duplicated any ballot, conforming as to the size, weight, shape, thickness, or color, to the official ballot so that it could be cast or counted as an official ballot in an election.
- (4) Every person who is disorderly or creates a disturbance whereby any meeting of the election inspectors or the board of registration of voters during an election is disturbed or interfered with; or whereby any person who intends to be lawfully present at any meeting or election is prevented from attending; or who causes any disturbance at any election; and every person assisting or aiding or abetting any disturbance.
- (5) Every person who, either in person or through another, in any manner breaks up or prevents, or endeavors to break up or prevent, the hold-

ing of any meeting of the board of registration of voters, or in any manner breaks up or prevents, or endeavors to break up or prevent, the holding of any election.

- (6) Any person, other than those designated by section 11-132, who remains or loiters within the area set aside for voting as set forth in section 11-132 during the time appointed for voting.
- (7) Any person, including candidates carrying on any campaign activities within the area described in section 11-132 on the day on which an election is being held for the purpose of influencing votes. Campaign activities shall include but not be restricted to the following:
 - (A) The distribution, circulation, posting, or staking of campaign cards, pamphlets, and other literature;
 - (B) The use of public address systems and other public communication media;
 - (C) The use of motor caravans or parades;
 - (D) The use of entertainment troupes or the free distribution of goods and services.

The "day of election" as used in this paragraph shall commence at midnight of the day before the polls are opened and shall end with the closing of the polls.

- (8) Any person who opens a reply envelope containing an absentee ballot voted under chapter 15 other than those authorized to do so under chapter 15.
- (9) Any voter who makes any false statement in any affidavit required for absentee voting under chapter 15.
- (10) Every person who, being a candidate for election, or an agent of any candidate, or a member of any committee acting for or on behalf of any candidate, or in charge of any committee or political party to which money is contributed during an election or which spends money in any election, fails to file the statement of expenses or of lack of expenses, as required by law.
- (11) Any person making any anonymous contribution to any candidate, party, or committee as defined in section 11-191, or any candidate, party, or committee receiving any such contribution or entering any contribution falsely in his accounts.
- (12) Any unauthorized person found in possession of any voting machine or keys thereof.
- (13) Every person who wilfully violates or fails to obey any of the provisions of law, punishment for which is not otherwise in this chapter specially provided for.

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§19-7 Penalty. Any person convicted of a misdemeanor under this chapter shall be fined not more than \$500 or imprisoned not more than six months, or both.

§19-8 Other offenses; penalties. Any violation of this section shall result in a fine of not less than \$50 nor more than \$300:

- (1) Any person, business, or corporation violating section 11-192 by publishing, showing, broadcasting, or circulating political advertisements or literature without stating the name and address of the person, committee, or party who paid for such advertisement or literature.
- (2) Any person, business, or corporation who refuses an employee the privileges conferred by section 11-95, or subjects an employee to a penalty or deduction of wages because of the exercise of the privileges, or who directly or indirectly violates section 11-95.

§19-9 Other prosecutions. Any person in any way violating any of the provisions of this chapter may also be prosecuted for the violation of any other law, rule, or regulation existing at the time of violation.

SECTION 3. Chapters 11, 12, 13, 14, 15, 16, 17, 18, 63, Part III of Chapter 70, Sections 46-21, 296-3, 296-4, and the first paragraph of Section 296-5 of the Hawaii Revised Statutes, and Section 2 of Act 42, 1968 Session Laws are repealed.

SECTION 4. All acts passed during this regular session 1970, whether enacted before or after the passage of this Act shall be amended to conform to this Act, unless such acts specifically provide to the contrary.

SECTION 5. If any provision of this Act, or application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 6. This Act shall take effect upon its approval; provided that the provisions in Section 2 of the Act requiring the filing of itemized statements of contributions in "Sec. 11-193" and the escheat of anonymous contributions in "Sec. 11-195" shall take effect on January 1, 1971.

(Approved May 28, 1970.)

ACT 27

S. B. NO. 391

A Bill for an Act Relating to Applications and Questionnaires Relating to Public Employment.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. . Arrest record. No applicant for employment by the State or any political subdivision or agency thereof shall be required to answer, either orally or in writing, as a condition precedent to employment, whether or not he has been arrested; provided that this shall not preclude any question concerning any conviction of a crime or the arrest and other circumstances pertaining to the conviction."

SECTION 2. This Act shall take effect on January 1, 1971.
(Approved May 28, 1970.)

ACT 28

S. B. NO. 1168-70

A Bill for an Act Relating to Endless Chain Schemes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 480, Hawaii Revised Statutes, is amended by adding a new section to be appropriately numbered and to read:

"Sec. 480- . Endless chain schemes. A person engages in an unfair method of competition and an unfair or deceptive act or practice within the meaning of section 480-2 when, in the conduct of any trade or commerce, he contrives, prepares, sets up, proposes, or operates any endless chain scheme. As used in this section, an endless chain scheme means any scheme for the disposal or distribution of property whereby a participant pays a valuable consideration for the chance to receive compensation for introducing one or more additional persons into participation in the scheme, or for the chance to receive compensation when a person introduced by the participant introduces a new participant. Compensation, as used in this section, does not mean or include payments based upon sales made to persons who are not participants in the scheme and who are not purchasing in order to participate in the scheme."

SECTION 2. This Act shall take effect upon its approval.
(Approved May 28, 1970.)

ACT 29

S. B. NO. 1200-70

A Bill for an Act Relating to Tax Assessments of Golf Courses.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. **Purpose.** This Act will change the real property tax assessment dates of golf courses to a fiscal year basis to provide uniformity in the real property tax due dates.

SECTION 2. Section 1, Act 150, Session Laws of Hawaii 1969, is amended by amending paragraph "(4)" of section 246- of the new section added thereunder, relating to conditions precedent to special assessment of land as golf course, to read:

"(4) The director of taxation shall prescribe the form of the petition. The petition shall be filed by March 1 of any tax year and shall be approved or disapproved by June 15 of such year. If approved, the as-

ACT 30

essment based upon the use requested in the dedication shall be effective on July 1 of the succeeding tax year.”

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 28, 1970.)

ACT 30

H. B. NO. 1224

A Bill for an Act Relating to Dental Hygienist.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 447-3, Hawaii Revised Statutes, is amended to read as follows:

“Employment of and practice by dental hygienists. Any licensed dentist, legally incorporated eleemosynary dental dispensary or infirmary, private school, or welfare center, the State or any county, may employ licensed dental hygienists. Clinical dental hygiene may be practiced by a licensed dental hygienist. The practice of clinical dental hygiene is defined as the removal of hard and soft deposits and stains from the portion of the crown and root surfaces to the depth of the gingival sulcus, polishing natural and restored surfaces of teeth, the application of preventive chemical agents to the coronal surfaces of teeth, which chemical agents have been approved by the board of dental examiners, and may use such mouth washes as are approved by the board, but shall not perform any repair work or the preparation thereof, or any other operation on the teeth or tissues of the mouth; provided, that nothing herein shall prohibit a dental hygienist from using or applying topically any chemical agent which has been approved in writing by the department of health for any of the purposes set forth in part V of chapter 321, entitled ‘Dental Health’, and other procedures delegated by the dentist in accordance with the rules and regulations of the board of dental examiners. He may operate in the office of any licensed dentist, or legally incorporated eleemosynary dental dispensary or infirmary, private school, or welfare center, or in any building owned or occupied by the State or any county, but only under the aforesaid employment and under the direct or general supervision of a licensed dentist; provided, that in the private practice of dentistry, the hygienist shall be under the direct and continuous supervision and inspection of a licensed dentist.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 28, 1970.)

* Edited accordingly

A Bill for an Act Relating to Decedent's Estates.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 533-1, 533-2 and 533-16, Hawaii Revised Statutes, are amended to read as follows:

"Section 533-1. Dower. Every woman shall be endowed of one-third part of all the lands owned by her husband at any time during marriage, in fee simple, in freehold, or in leasehold, unless she is lawfully barred thereof. She shall also be entitled, by way of dower, to an absolute property in the one-third part of all his remaining property owned by him at the date of his death, after the payment of all his just debts. The interests to which the wife is entitled in accordance with this section in the husband's real and personal property shall not apply to, and nothing in this section shall be deemed to give to the wife any interest in, the husband's interest in community property, real or personal."

"Section 533-2. Election in case of exchanged lands. If a husband seised of lands in fee simple, in freehold, or in leasehold, exchanges them for other such lands, his widow shall not have dower to both, but shall make her election to be endowed of the lands given, or of those taken in exchange, within six months after the death of her husband. If the election is not made, she shall take her dower of the lands received in exchange."

"Section 533-16. Curtesy; election between curtesy and will. In case the wife dies first and intestate, then except as in this section provided, her property shall immediately descend to her heirs, but shall be in all cases, whether she die testate or intestate, subject to a life interest in the husband in one-third of the wife's lands owned by her in fee simple, in freehold, or in leasehold, at the date of her death. The husband shall also, whether the wife die testate or intestate, be entitled, by way of curtesy to an absolute property in the one-third part of it all the wife's remaining property owned by her at the date of her death, after the payment of all her just debts. During the life of the wife the husband shall have no curtesy right inchoate or otherwise in the wife's property. If any provisions are made for the widower in the will of his wife, he shall be subject to the same requirements with respect to election between his curtesy and the provisions of the will, or taking under both, as is a widow in similar circumstances under sections 533-14 and 533-15.

No husband who has, for one year or upwards, previous to the death of his wife, wilfully and utterly deserted his wife, or wilfully neglected or refused to provide suitable maintenance for his wife, shall be entitled to any right or interest in his wife's property by way of curtesy.

The interests to which the husband is entitled in accordance with this section in the wife's real and personal property shall not apply to, and nothing in this section shall be deemed to give the husband any interest in, the wife's interest in community property, real or personal."

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SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved May 28, 1970.)

ACT 32

H. B. NO. 1907-70

A Bill for an Act Relating to Medicine and Surgery.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 453-3, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 453-3 Limited and temporary licenses. The board of medical examiners shall issue a limited and temporary license to an applicant who has not met the residency requirement under section 453-4(2), who has not been examined as required by section 453-4, and against whom no disciplinary proceedings are pending in any state or territory, if the applicant is otherwise qualified to be examined, and upon determination that:

- (1) There is an absence or a shortage of licensed physicians in a particular locality, and that the applicant has been duly licensed as a physician by written examination under the laws of another state or territory of the United States. A limited and temporary license issued hereunder shall permit the practice of medicine and surgery by the applicant only in the particular locality, and no other, as shall be set forth in the license issued to him. The license shall be valid only for a period of eighteen months from the date of issuance; or
- (2) The applicant is to be employed by an agency or department of the state or county government, and that the applicant has been duly licensed as a physician by written examination under the laws of another state or territory of the United States. A limited and temporary license issued hereunder shall only be valid for the practice of medicine and surgery while the applicant is in the employ of such governmental agency or department and in no case shall be used to provide private patient care for a fee. A license issued under this subparagraph may be renewed from year to year; or
- (3) The applicant would practice medicine and surgery only while under the direction of a physician regularly licensed in the State other than as permitted by this section, and that the applicant intends to take the regular licensing examination conducted by the board within the next eighteen months. In no case shall a limited and temporary license issued hereunder be valid for more than a period of eighteen months from the date of issuance; or
- (4) The applicant has been appointed as an intern or accepted for specialty or resident training in a hospital approved by the board, and that the applicant shall be limited in the practice of medicine and sur-

* Edited accordingly

gery to the extent required by the duties of his position or by his program of training while at the hospital. A limited and temporary license hereunder shall be issued without regard to the requirement of section 453-4(5) relative to internship. The license shall be valid during the period in which the applicant remains as intern or a resident in training, and may be renewed from year to year during the period; or

- (5) A public emergency exists, and that the applicant has been duly licensed as a physician by written examination under the laws of another state or territory of the United States. A limited and temporary license issued hereunder shall only be valid for the period of such public emergency.

Nothing herein requires the registration or licensing hereunder of nurses, or other similar persons, acting under the direction and control of a licensed physician."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.
(Approved May 28, 1970.)

ACT 33

H. B. NO. 2151-70

A Bill for an Act Relating to Energy Corridors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Findings and declaration of necessity. The legislature finds and declares that: (1) there is a critical problem in establishing convenient and economical means for transporting fuels and other sources of energy from the places of manufacture or storage to distribution areas within the State of Hawaii or the places of consumption; (2) there would be a maximization of the use of available lands if a state agency were to be authorized to acquire, hold and manage energy corridors consisting of lands or interest therein, thereby controlling the use thereof; (3) competition would be fostered and thereby a reduction in cost to consumers would be realized if the State could make available energy corridors as the location for the facilities necessary for the transportation of sources of energy; (4) the department of transportation is the agency of the State best able to manage and control the energy corridors. The legislature also finds that the acquisition of private property for the aforementioned purposes is necessary, and that such acquisition is for a public use.

SECTION 2. Authorization. The department of transportation shall establish, maintain, operate, manage and control energy corridors throughout the state for the purpose of maximizing the utilization of lands available for use in connection with transporting by pipeline or other means, sources of energy including but not limited to oil, its derivatives and natural gas; provided, however, that the utilization of such energy corridors shall be permissive and not mandatory.

* Edited accordingly

ACT 34

SECTION 3. Acquisition of lands. The director of transportation in the name of the State and subject to the approval of the governor may for the purposes of this Act acquire, by purchase or eminent domain, private property in fee simple, or any lesser interest therein, including leases, all property necessary for the establishment, maintenance, operation, management and control of energy corridors.

SECTION 4. Disposition. The director of transportation may dispose of any interests in the lands acquired for the purposes of this Act by lease or license or by the grant of easements to any person who is engaged in the business of furnishing or delivering sources of energy, in bulk.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 28, 1970.)

ACT 34

S. B. NO. 1203-70

A Bill for an Act Relating to the Voluntary Admission of Adults to Waimano Training School and Hospital and Amending Chapter 333, Hawaii Revised Statutes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 333, Hawaii Revised Statutes, is hereby amended by adding a new section to read:

“Section 333- . Voluntary admission of adults. Upon the written application of a parent or guardian or other person or agency having custody, the director of health may permit the voluntary admission to Waimano Training School and Hospital of any adult who comes within sections 333-24 and 333-25, and on whose behalf an application for commitment under this part has been filed; provided that no such adult shall be entitled as a matter of right to be admitted or to remain at the Waimano Training School and Hospital.

No adult admitted under this section shall be detained at the Waimano Training School and Hospital for a period of more than sixty days. The period of sixty days may be extended for not more than an additional thirty days by a circuit judge having jurisdiction to order commitments upon the judge's finding that the extension is for the best interests of the adult.

Admission under this section shall be subject to such reasonable conditions and regulations as may be established by the director.”

SECTION 2. This Act shall take effect upon its approval.

(Approved June 1, 1970.)

ACT 35

H. B. NO. 894

A Bill for an Act Relating to County Boards of Zoning Appeals.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a section to be appropriately numbered and to read as follows:

"Sec. - . County boards of zoning appeals; members. In every county with a population of more than 100,000 persons, the board of zoning appeals shall consist of five members."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 4, 1970.)

ACT 36

H. B. NO. 1439-70

A Bill for an Act Relating to Government Officials and Employees to be Citizens and Residents.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 78-1(f), Hawaii Revised Statutes, is amended to read:

"(f) The requirement of subsection (a) of three years' residence shall not apply to any citizen of the United States who:

- (1) Was a resident of the State immediately before attending a school in another state and returned to the State within three years after termination of his education; or
- (2) Was a female resident of the State immediately before attending a school in another state, was married to a nonresident of the State while attending school and returned to the State within three years after termination of her education; or
- (3) Is a female resident who marries a nonresident and continues to reside in the State; or
- (4) Was a resident of the State for at least three years before establishing residence in another state and who re-establishes residence in the State."

SECTION 2. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 4, 1970.)

ACT 37

S. B. NO. 1177-70

A Bill for an Act Relating to Income Tax.

Be It Enacted by the Legislature of the State of Hawaii:

* Edited accordingly

ACT 38

SECTION 1. Purpose. The purpose of this Act is to conform the provisions of section 235-62, Hawaii Revised Statutes, with the amendments made by Act 19, Session Laws of Hawaii 1966, so that all monthly returns will have a common due date.

SECTION 2. Section 235-62, Hawaii Revised Statutes is amended by deleting the word "twentieth" appearing in the fifth sentence thereof and substituting the word "last" therefor.

SECTION 3. This Act shall take effect upon its approval.
(Approved June 4, 1970.)

ACT 38

S. B. NO. 1228-70

A Bill for an Act Relating to Schools.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 297-1, Hawaii Revised Statutes, is amended to read:

"Sec. 297-1. Definition, school. For the purpose of this part the word 'school' includes every academic and noncollege type of school, whether under governmental supervision or otherwise, except sabbath schools which convene once each week."

SECTION 2. Section 298-1, Hawaii Revised Statutes, is amended to read:

"Sec. 298-1. Public, private schools. All academic and noncollege type schools established and maintained by the department of education in accordance with law are public schools. All other academic and noncollege type schools established and conducted in compliance with law are private schools, irrespective of the hours during which the sessions take place."

SECTION 3. New material is underscored. In printing this Act, the revisor of statutes need not included the underscoring.*

SECTION 4. This Act shall take effect upon its approval.
(Approved June 4, 1970.)

ACT 39

S. B. NO. 1239-70

A Bill for an Act Relating to Hog Cholera Eradication Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The first paragraph of section 142-23.1 of the Hawaii Revised Statutes is amended to read as follows:

"Sec. 142-23.1 Hog cholera eradication; indemnity. When swine are destroyed by the State veterinarian as being infected with hog cholera, or when non-infected swine are ordered destroyed to depopulate an infected herd in accordance with procedures adopted in the national hog cholera eradication program, the department of agriculture may indemnify the owners of such swine;

* Edited accordingly

provided that the amount of the indemnity shall not exceed fifty per cent of the difference between the appraised value and the salvage value of the slaughtered swine; and provided further, that in no case shall the amount exceed the maximum amount authorized to be paid for such swine by the federal government.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 4, 1970.)

ACT 40

S. B. NO. 1222-70

A Bill for an Act Relating to Unauthorized Presence on School Premises.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The first sentence of section 727-24, Hawaii Revised Statutes, is amended to read:

“Any person intruding, or loitering, or loafing, or idling, without proper authority upon the premises of any school, public or private, of any school dormitory, or of the Hawaii youth correctional facilities, may be arrested by any police officer, without any warrant, and on the complaint of the principal or other person in charge of the school, or of any trustee of the same; upon conviction thereof he shall be fined not more than \$200 or imprisoned not more than six months, or both.”

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 4, 1970.)

ACT 41

H. B. NO. 43

A Bill for an Act Relating to Repair of Substandard Rental Units.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 666, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . HEALTH REQUIREMENTS IN RENTAL DWELLINGS

Sec. 666- Definitions. As used in this part:

- (1) “Dwelling Unit” means a structure, or part of a structure, which is used as a home, residence, or sleeping place by one or more persons maintaining a common household, to the exclusion of all others, and the appurtenances thereto, grounds, and facilities held out and made available for the use of tenants.

* Edited accordingly

ACT 41

- (2) (A) "Landlord" means the owner, lessor, or sub-lessor of the dwelling unit or the property of which it is a part, or any person authorized to exercise any aspect of the management of the dwelling unit, including any person who receives rent or any part thereof, other than as a bona fide purchaser, and who has no obligation to deliver the whole of such receipts to another person.
- (B) Wherever "landlord" is used in this part to signify the person to whom the tenant has a duty, including a condition to the exercise of a privilege, the duty may, at the tenant's election, be discharged in regard to:
- (i) Any person held out by any landlord as the appropriate party to accept performance, whether a landlord or not; or
 - (ii) Any person with whom the tenant usually deals as a landlord; or
 - (iii) Any person to whom the person specified in paragraph (A) or (B) is directly responsible.
- (C) Wherever "landlord" is used in this part to signify the person who is under a duty, whether to a tenant or to a property, every person specified in paragraph (A) shall be responsible for its performance and liable for its non-performance. Nothing in this paragraph shall prohibit the allocation by agreement among multiple landlords of such duties, but no such agreement shall be effective as against a tenant or other party with rights against the landlord under this part.
- (3) "Tenant" means a person who occupies a dwelling unit for dwelling purposes with the landlord's consent.

Sec. 666- . Tenant's remedy of repair and deduction for minor defects. (a)

If the landlord of a dwelling unit fails to repair, maintain, keep in sanitary condition, or perform in any other manner required by sections 321-9 to 321-11 and 322-1 to 322-7, or by regulations thereunder, or as agreed to in a rental agreement, and does not remedy the failure within thirty days after being notified in writing by the tenant to do so, or if the cost to the landlord of remedying the failure would exceed \$100, within thirty days after being notified in writing by the department of health that there is a health violation, the tenant may further notify the landlord in writing of his intention to correct the objectionable condition at the landlord's expense and:

- (1) Immediately do or have done the necessary work in a workmanlike manner; or
- (2) The tenant may submit to the landlord, at least thirty days before having the work done, a written signed estimate from each of two qualified workmen and proceed to have done the necessary work by the workman who provides the lower estimate; provided the landlord may require by a writing a reasonable substitute workman or substi-

tute materials; and provided further that if the lower estimate exceeds \$100, the tenant shall not proceed to have done the necessary work until he obtains from the department of health a written statement that the objectionable condition in fact constitutes a violation of a health law or regulation, a copy of which statement shall be mailed by certified or registered mail by the department of health to the landlord.

(b) A tenant may deduct from his rent not more than \$100 for his actual expenditures for work done to correct an objectionable condition pursuant to subsection (a) (1) and may deduct not more than one month's rent for his actual expenditures for work done to correct an objectionable condition pursuant to subsection (a) (2), if he submits to the landlord copies of receipts amounting to at least the sum deducted.

(c) At the time the tenant initially notifies the landlord under subsection (a), the tenant shall list every condition that he knows or should know of non-compliance with sections 321-9 to 321-11 and 322-1 to 322-7, or regulations thereunder, in addition to the objectionable condition that the tenant then intends to correct or have corrected at the landlord's expense. Failure by a tenant to list such a condition that he knew of or should have known of shall estop the tenant from requiring the landlord to correct it and from having it corrected at the landlord's expense under this part for a period of six months after the initial notification to the landlord. Total correction and repair work costs under this part chargeable to the landlord's expense during each six-month period shall not exceed an amount equal to three month's rent.

(d) In no event may a tenant repair a dwelling unit at the landlord's expense when the condition complained of was caused by the want of due care by the tenant, a member of his family, or other person on the premises with his consent.

(e) Before correcting a condition affecting facilities shared by more than one dwelling unit, the tenant shall notify all other tenants sharing such facilities of his plans, and shall so arrange the work as to create the least practicable inconvenience to the other tenants.

Sec. 666- . Retaliatory evictions and rent increases prohibited. (a) Notwithstanding that the tenant has no written rental agreement or that it has expired, so long as the tenant continues to tender the usual rent to the landlord or proceeds to tender receipts for rent lawfully withheld under section 666- , no action or proceeding to recover possession of the dwelling unit may be maintained against the tenant, nor shall the landlord otherwise cause the tenant to quit the dwelling unit involuntarily, nor demand an increase in rent from the tenant, nor decrease the services to which the tenant has been entitled, within six months after:

- (1) The tenant has complained in good faith to the department of health of conditions in or affecting his dwelling unit which constitute a violation of a health law or regulation; or
- (2) The tenant has in good faith requested repairs under section 666- .

ACT 41

(b) Notwithstanding subsection (a), the landlord may recover possession of the dwelling unit if:

- (1) The tenant is committing waste, or a nuisance, or is using the dwelling unit for an illegal purpose or for other than living or dwelling purposes in violation of his rental agreement;
- (2) The landlord seeks in good faith to recover possession of the dwelling unit for immediate use as his own abode;
- (3) The landlord seeks in good faith to recover possession of the dwelling unit for the purpose of substantially altering, remodeling, or demolishing the premises;
- (4) The landlord seeks in good faith to recover possession of the dwelling unit for the purpose of immediately terminating for at least six months use of the dwelling unit as a dwelling unit;
- (5) The complaint or request of subsection (a) relates only to a condition or conditions caused by the lack of ordinary care by the tenant or another person in his household or on the premises with his consent;
- (6) The landlord has received from the department of health certification that the dwelling unit and other property and facilities used by or affecting the use and enjoyment of the tenant were on the date of filing of the complaint or request in compliance with health laws and regulations;
- (7) The landlord has in good faith contracted to sell the property, and the contract of sale contains a representation by the purchaser corresponding to paragraphs (2), (3), or (4); or
- (8) The landlord is seeking to recover possession on the basis of a notice to terminate a periodic tenancy, which notice was given to the tenant previous to the complaint or request of subsection (a).

(c) Any tenant from whom possession has been recovered or who has been otherwise involuntarily dispossessed, in violation of this section, is entitled to recover three months' rent or three-fold the damages sustained by him, whichever is greater, and the cost of suit, including a reasonable attorney's fee.

(d) Notwithstanding subsection (a), the landlord may increase the rent if:

- (1) The landlord has received from the department of health certification that the dwelling unit and other property and facilities used by and affecting the use and enjoyment of the tenant were on the date of filing of the complaint or request of subsection (a) in compliance with health laws and regulations;
- (2) The landlord has become liable for a substantial increase in property taxes, or a substantial increase in other maintenance or operating costs not associated with his complying with the complaint or request, not less than four months prior to the demand for an increase in rent; and the increase in rent does not exceed the prorated portion of the net increase in taxes or costs;

- (3) The landlord has completed a capital improvement of the dwelling unit or the property of which it is a part and the increase in rent does not exceed the amount which may be claimed for federal income tax purposes as a straight-line depreciation of the improvement, prorated among the dwelling units benefited by the improvement;
- (4) The complaint or request of subsection (a) relates only to a condition or conditions caused by the want of due care by the tenant or another person of his household or on the premises with his consent; or
- (5) The landlord can establish, by competent evidence, that the rent now demanded of the tenant does not exceed the rent charged other tenants of similar dwelling units in his building or, in the case of a single-family residence or where there is no similar dwelling unit in the building, does not exceed the market rental value of the dwelling unit.

Sec. 666- . Waiver of liability forbidden. Every agreement between landlord and tenant in or in connection with a rental agreement of a dwelling unit exempting the landlord from a duty or liability imposed by this part shall be unenforceable.

Sec. 666- . Other laws. Every legal right, remedy, or obligation arising out of a dwelling unit rental agreement not provided for in this part shall be regulated and determined under other parts of this chapter, and in the case of conflict between any provision of this part and other parts of this chapter, this part shall control.”

SECTION 2. This Act shall take effect upon its approval.
(Approved June 5, 1970.)

ACT 42

H. B. NO. 1202

A Bill for an Act Relating to the Reapportionment of the City Council of the City and County of Honolulu.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Article III, Chapter 1, Section 3-102, of the Charter of the City and County of Honolulu is hereby amended to read as follows:

“Section 3-102. Number, election and terms of office of councilmen. The council shall consist of nine members. One member shall be elected from each of the nine districts hereinafter provided. The terms of office of councilmen shall be four years beginning at twelve o’clock meridian on the second day of January following their election.”

SECTION 2. Article III, Chapter 1, Section 3-103, of the Charter of the City and County of Honolulu is hereby amended to read as follows:

“Section 3-103. Council districts; reapportionment. The nine council districts, each comprised of the respective representative districts, or portions thereof, as provided by law for the election of representatives to the legislature, shall be as follows:

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Council District I: That area consisting of all of the sixth and seventh precincts of the nineteenth representative district; all of the first, second, third, fourth, fifth, sixth, ninth, tenth, eleventh, twelfth and thirteenth precincts of the twentieth representative district; and all of the twenty-first representative district as described in the Governor's proclamation issued May 2, 1969, as ratified by the electors in the 1968 General Elections.

Council District II: That area consisting of all of the seventh and eighth precincts of the twentieth representative district; all of the twenty-second representative district; and all of the sixth, seventh, eighth, ninth, tenth, eleventh and twelfth precincts of the twenty-third representative districts as described in said proclamation.

Council District III: That area consisting of all of the first, second, third, fourth and fifth precincts of the twenty-third representative district; and all of the second, third, fourth, fifth, sixth, seventh, eighth, ninth and tenth precincts of the twenty-fourth representative district as described in said proclamation.

Council District IV: That area consisting of all of the eighth representative district; all of the first, second, third, fourth, fifth and seventh precincts of the ninth representative district; and all of the first precinct of the twenty-fourth representative district as described in said proclamation.

Council District V: That area consisting of all of the sixth precinct of the ninth representative district; all of the second, third, fourth, fifth, sixth, seventh, eighth and ninth precincts of the tenth representative district; all of the eleventh representative district; and all of the ninth precinct of the twelfth representative district as described in said proclamation.

Council District VI: That area consisting of all of the first precinct of the tenth representative district; all of the first, second, third, fourth, fifth, sixth, seventh and eighth precincts of the twelfth representative district; all of the fifth, sixth, seventh and ninth precincts of the thirteenth representative district; and all of the eighth precinct of the fourteenth representative district as described in said proclamation.

Council District VII: That area consisting of all of the first, second, third, fourth and eighth precincts of the thirteenth representative district; all of the first, second, third, fourth, fifth, sixth and seventh precincts of the fourteenth representative district; and all of the fifth, sixth and seventh precincts of the fifteenth representative district as described in said proclamation.

Council District VIII: That area consisting of all of the first, second, third and fourth precincts of the fifteenth representative district; all of the second, third, fourth, fifth, sixth, seventh and eighth precincts of the sixteenth representative district; all of the first, fourth, sixth and seventh precincts of the seventeenth representative district; and all of the fourth precinct of the eighteenth representative district as described in said proclamation.

Council District IX: That area consisting of all of the first precinct of the sixteenth representative district; all of the second, third and fifth precincts of the seventeenth representative district; all of the first, second, third, fifth, sixth, seventh and eighth precincts of the eighteenth representative district; and all of the first, second, third, fourth and fifth precincts of the nineteenth representative district as described in said proclamation.

Notwithstanding the provisions of Section 13-105, the council districts provided for in this section shall be reviewed and may be modified, if such modification is necessary, by the legislative reapportionment commission established by Article III, Section 4 of the Constitution of the State of Hawaii in a reapportionment year as defined in that section, or, if modification is sooner required by court order in a non-reapportionment year.”

SECTION 3. Article III, Chapter 1, Section 3-104, of the Charter of the City and County of Honolulu is hereby amended to read as follows:

“Section 3-104. Qualifications of Councilmen. To be eligible for election or appointment to the council, a person must be a citizen of the United States and have been a duly qualified elector of the city for at least two years immediately preceding his election or appointment, and shall be a qualified voter of the council district from which he seeks to be elected. Any councilman who removes his residence from the city or from the district from which he was elected or appointed shall, by that fact, be deemed to have vacated his office.”

SECTION 4. Article III, Chapter 1, Section 3-105, of the Charter of the City and County of Honolulu is hereby amended to read as follows:

“Section 3-105. Vacancy in Office. A vacancy in the office of any councilman shall be filled in the following manner:

(a) If the unexpired term is less than one year, the remaining members of the council shall elect a successor with requisite qualifications to fill the vacancy for the unexpired term. Vacancies shall be filled only at a regular meeting of the council after reasonable notice of intent to fill the vacancy has been given to all remaining members of the council by the presiding officer. Should the council fail to fill any vacancy within thirty days after its occurrence, the mayor shall appoint a successor to fill the vacancy for the unexpired term.

(b) If the unexpired term is for one year or more, the vacancy shall be filled by special election to be called by the council within ten days and to be held within sixty days after the occurrence of the vacancy. At such time the electors of the district shall elect a successor to fill the vacancy for the remainder of the term. If any special or general election is to be held in the city after thirty days and within one hundred eighty days after the occurrence of the vacancy, then the election shall be held in conjunction with such other election.”

SECTION 5. Article III, Chapter 1, Section 3-107, of the Charter of the City and County of Honolulu is hereby amended to read as follows:

“Section 3-107. Removal of councilmen. Any councilman may be removed for malfeasance, misfeasance or nonfeasance in office, or for interference with the performance of the duties of any officer or employee in any executive agency of the city government. The supreme court of the State shall constitute a board of impeachment in any proceeding for the removal of a councilman who may be charged on any of the foregoing grounds. The charges shall be set forth in writing in a petition for impeachment signed by not less than one hundred qualified electors of a district for the removal of a councilman and said signatures shall be necessary only for the purpose of filing the pe-

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tion. The petition having once been filed, hearings shall be held on all such charges. The board of impeachment may appoint a master and invest him with power to investigate the charge and report thereon to the board. If the board sustains the charge, the councilman shall be deemed removed from office."

SECTION 6. Article III, Chapter 1, Section 3-108.1, of the Charter of the City and County of Honolulu is hereby amended to read as follows:

"Section 3-108.1. Organization of Council; Officers; Rules; Employees. 1. The council shall meet in the council room at the city hall for its organization at twelve o'clock meridian on the second day of January following its election, or on the following day if the second day be a Sunday, at which time it shall elect one of its councilmen as chairman and presiding officer of the council. It shall also elect one of its councilmen as vice-chairman who shall act as the presiding officer in the event of the chairman's absence or disability. The council shall appoint a presiding officer pro tempore from its own members in the event of the absence or disability of both the chairman and vice-chairman. All councilmen shall have the right to vote in the council at all times. A majority of the entire membership of the council shall constitute a quorum and, except as otherwise provided, the affirmative vote of a majority of the entire membership shall be necessary to take any action."

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 8. This Act shall take effect upon its approval.

(Approved June 5, 1970.)

ACT 43

H. B. NO. 1304-70

A Bill for an Act Relating to Pensions for Patient Employees at Hospitals for the Treatment of Leprosy, etc.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 326-23, Hawaii Revised Statutes, is amended by adding the following paragraph:

"Patient employees may use service with any State department or agency not exceeding five years which has not been credited under the State retirement system in lieu of service with a hospital, settlement, and place maintained for the treatment and care of persons affected with leprosy to satisfy the requirement of the preceding paragraph; provided that the service shall be authenticated by official records of the department where service was performed."

SECTION 2. This Act shall take effect upon its approval but shall apply to service rendered prior to approval.

(Approved June 5, 1970.)

* Edited accordingly

A Bill for an Act Relating to Audit and Accounting.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 40-10, Hawaii Revised Statutes, is amended to read:

"Sec. 40-10. Destruction of vouchers, etc. At the end of each fiscal year, the comptroller, with the approval of the lieutenant governor and the attorney general of the State, may destroy all vouchers, documents, and other records or papers on file with the comptroller or kept in his department for a period of more than six years (exclusive of permanent records) which in his opinion are no longer of any use or value."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect July 1, 1970.

(Approved June 5, 1970.)

A Bill for an Act Relating to the Department of Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 298-19, Hawaii Revised Statutes, is amended to read:

"Section 298-19. Records of Pupils; Release from Attendance. All schools, either public or private, shall keep a correct register of the names, sex, age, and nationality, as far as ascertainable, date of entering school, and the places of residence of the children attending their respective schools. No school shall grant a release to any child under eighteen years of age, who is registered as attending his school, for the purpose of attending another school, unless the consent and approval of the parents or guardians of the child is given in writing with the facts and reasons therefor. The register shall be carefully preserved, and as often as the department of education shall direct, the register or a true copy thereof shall be filed in the office of the department."

SECTION 2. Section 298-20, Hawaii Revised Statutes, is amended to read:

"Section 298-20. Transfer to Another School. No school, either public or private, shall receive any child under eighteen years of age, who has attended another school of the same class in the same district, unless the child produces to the school to be entered, a certificate of release of the school last attended by the child. If the child applies to attend a school of higher grade, a certificate of proficiency shall be required or a lawful excuse for its absence. The children from one district desiring to enter a school in another district, may be received

* Edited accordingly

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or admitted upon producing a certificate of release from the school last attended in the other district.”

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect on July 1, 1970.
(Approved June 5, 1970.)

ACT 46

H. B. NO. 1621-70

A Bill for an Act Relating to the Review, Publication and Revision of Ordinances Enacted by Counties Having a Population in Excess of 100,000 Persons.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. **Comprehensive ordinance codes.** All ordinances which have been duly enacted and not repealed by counties having a population in excess of 100,000 persons shall be compiled, consolidated, revised, indexed and arranged as a comprehensive ordinance code which shall be published within one year after the passage of this Act and at least once every ten years thereafter.

SECTION 2. **Publication of supplements.** Comprehensive ordinance codes published pursuant to Section 1 of this Act shall be updated annually by the publication of a cumulative pocket part supplement which shall be appropriately indexed and shall contain all ordinances enacted subsequent to the publication of the preceding Comprehensive ordinance code.

SECTION 3. This Act shall take effect upon its approval.
(Approved June 5, 1970.)

ACT 47

H. B. NO. 1879-70

A Bill for an Act Relating to Land Sales Practices.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 484-5, HRS, is hereby amended by adding thereto a new subparagraph to be numbered (16) and to read as follows:

“(16) A statement which indicates the existing zoning and the general plan land use designation of each lot and the proposed use of each lot in the subdivision, to include without limitation such uses as residential dwellings, churches, agriculture, hospitals, schools, low density apartments, high density apartments and hotels, and a subdivision map which shows such information.”

SECTION 2. Section 484-6, HRS, is hereby amended by adding thereto a new subparagraph to be numbered (7) and to read as follows:

“(7) A statement which indicates the existing zoning and the general plan land use designation of each lot and the proposed use of each lot in the subdivision, to include without limitation such uses as residential

* Edited accordingly

dwellings, churches, agriculture, hospitals, schools, low density apartments, high density apartments and hotels, and a subdivision map which shows such information."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 5, 1970.)

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H. B. NO. 1388-70

A Bill for an Act Relating to Disposition of Abandoned Vessels.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Disposition by director of transportation of certain abandoned vessels. Any vessel which (1) has been left unattended for a continuous period of more than 30 days and (2) is within the waters of the State or on public property, or is on private property without authorization of the owner or occupant of the property may be caused by the director of transportation to be taken into custody and disposed of pursuant to this Act.

SECTION 2. Notice to owner. Upon taking custody of any such vessel, a written notice shall immediately be posted on the vessel and a duplicate original thereof sent by registered or certified mail, with a return receipt, to the registered owner of the vessel at his last known address and to all lien holders shown on the records of the department of transportation. The notice shall contain a brief description of the vessel, the location of custody, and the intended disposition of the vessel if not repossessed within twenty days after the mailing of the notice. A notice need not be sent to any purported owner or any other person whose interest in the vessel is not recorded with the department of transportation.

SECTION 3. Public auction. If the vessel is not repossessed within twenty days after the mailing of the notice, the vessel shall be disposed of by public auction, through oral tenders, or by sealed bids, after public advertisement has been made once in a newspaper of general circulation; provided that the public auction shall not be held less than five days after the publication of the advertisement. Where no bid is received, the vessel may be sold by negotiation, disposed of as junk or donated to any governmental agency.

SECTION 4. Possession by interested party. Any person having an interest in the vessel may take possession of the vessel prior to the date of public auction upon payment to the department of transportation of all harbor use fees, towing, handling, storage, appraisal, advertising and any other expenses incurred by the department in connection with the vessel. If the person taking possession of the vessel is not the registered owner, he shall, prior to taking possession of the vessel, pay the foregoing expenses and post adequate security

* Edited accordingly

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which shall not exceed the value of the vessel. Such security, if not forfeited, shall be returned two years after receipt.

SECTION 5. When public auction not required. Public auction shall not be required when the appraised value of any vessel as determined by an independent appraiser who has had at least one year of experience in the sale or purchase of vessels, is less than \$100.00. Upon that determination and after public advertisement has been made once in a newspaper of general circulation, the director of transportation may sell the vessel by negotiation, dispose of it as junk or donate the vessel to any governmental agency.

SECTION 6. Effect of sale. The transfer of interest by sale hereunder shall be evidenced by a bill of sale from the department of transportation, shall be considered a transfer by operation of law and shall be governed by provisions applicable thereto.

SECTION 7. Disposition of proceeds. The department of transportation shall retain out of the proceeds of the sale of a vessel the mooring or other harbor use fees, the expenses of the auction and any other expense incurred by the department in taking the vessel into custody. The balance, if any, shall be deposited into the general fund of the State. The owner may recover any such balance from the State only if he files a claim therefor with the department of budget and finance within one year after the execution of the bill of sale. A lien holder shall receive priority of payment from the balance to the extent of his lien on the vessel. The department of transportation may file a claim within the same period against the registered owner or person with an unrecorded interest to the extent that mooring and other harbor use fees and the expenses of sale exceed the proceeds of sale.

SECTION 8. This Act shall take effect upon its approval.

(Approved June 5, 1970.)

ACT 49

S. B. NO. 136

A Bill for an Act Relating to Tax Liens and Amending Chapter 246, Hawaii Revised Statutes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The first paragraph of Section 246-55, Hawaii Revised Statutes, is hereby further amended to read as follows:

“Every tax due upon real property, as defined by Section 246-1, shall be a paramount lien upon the property assessed, which lien shall attach as of July 1 in each tax year and shall continue for six years. If proceedings for the enforcement or foreclosure of the lien are brought within the applicable period hereinabove designated, the lien shall continue until the termination of said proceedings or the completion of such sale.”

SECTION 2. This Act, upon its approval, shall take effect for the fiscal year 1970-71 and thereafter.

(Approved June 5, 1970.)

A Bill for an Act Relating to Leaves for Employees Summoned as Witnesses or Jurors and Amending Section 79-14, Hawaii Revised Statutes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 79-14, Hawaii Revised Statutes, is amended to read as follows:

“Section 79-14. Leave for employee summoned as witness. Any provisions of the law to the contrary notwithstanding, any officer or employee of the State or its political subdivisions who is summoned as a juror or witness in any judicial proceeding, subject to his claim for exemption from jury duty as in the law provided, shall be entitled to leave of absence with pay for the period required for such service, provided that his fees as such juror or witness shall be remitted by an assignment of such fees to the fund from which his salary is paid. No such officer or employee who is summoned as a witness in a proceeding involving or arising from his outside employment or his personal business affairs shall be entitled to have his absence credited to the leave with pay provided in this section.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1970.)

A Bill for an Act Relating to Management of Government Finances.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 38, Hawaii Revised Statutes, is amended to read as follows:

“CHAPTER 38

DEPOSITS OF PUBLIC FUNDS

Section 38-1. Definitions. As used in this chapter, unless the context otherwise indicate:

- (1) Comptroller means the State comptroller.
- (2) Depository includes any national or State bank or savings and loan association insured by the federal savings and loan insurance corporation authorized to do business in this State.
- (3) Director means the State director of finance.

* Edited accordingly

Section 38-2. Authorized; conditions. All moneys in the State treasury may be deposited by the director to the credit of the State in any depository which the director, with the approval of the governor, may select, and any sums so deposited shall be deemed to be in the State treasury; provided that the depository in which the money is deposited furnish security as hereinafter provided; provided that in selecting a depository the class of security offered shall be considered as the basis of selection and due regard shall be given to a depository doing business in the State, or parts thereof, where the disbursements of public money are or may be made; provided that no more than 60 per cent of the aggregate amount of moneys of the State available for deposit and on deposit shall be deposited in any one depository. In case of loan fund money for which there is no immediate need, or expenditures from which would not be made for at least three months, the director may place these funds on time deposit on such terms and at such rates of interest as may be allowed by a depository to other depositors. All deposits of money, except time deposits, shall be paid upon demand on checks signed by the director and countersigned by the comptroller, or by the payment of a certificate of deposit issued by the depository, which certificate shall be endorsed by the payee named therein, as well as by the comptroller. Each depository shall at the end of every month render to the director a statement, in duplicate, for each of the funds of the State, showing the daily balances on open commercial account which were held by it during the month. One copy of the statement shall be filed by the director with the comptroller. The director shall annually, as of July 1, furnish each depository with a statement, certified by the comptroller, showing the amount and description of the securities on deposit with him by the depository to secure the deposits of the State. The duly authorized representatives of any depository shall at all times during office hours have access to the securities deposited for the purpose of examining the same and removing the coupons that may have matured, the examination to be made in the presence of the director or his representative.

Section 38-3. Securities for protection of funds deposited. For the protection of funds deposited by the director under this chapter, the following securities shall be deposited with the director, or with banks in the continental United States, as the director may select, to be held therein for safekeeping subject to the order of the director, any other provisions of the laws of the State to the contrary notwithstanding:

- (1) Bonds, notes, debentures or other evidences of indebtedness of the State or of any county of the State, for which the payment of the interest and principal is a direct obligation of the State or the county, as the case may be, in an amount at least equal in their par value to the amount of the deposit with the depository; or
- (2) Bonds, notes, debentures or other evidences of indebtedness of agencies of the State or of agencies of any county of the State, for which the payment of the interest and principal is from the revenues of the issuing agency, in an amount at least equal in their market value, but

not to exceed their par value, to the amount of the deposit with the depository; or

- (3) Bonds, notes, debentures or other evidences of indebtedness of any improvement district or frontage improvement of any county of the State, for which the payment of the interest and principal is from the assessments made for the improvement, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
- (4) Bonds, notes, bills or certificates of indebtedness of the United States or of agencies of the United States, for which the payment of the interest and principal is a direct obligation of the United States, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
- (5) Bonds, notes or debentures of agencies of the United States, in an amount at least equal to 95 per cent of their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
- (6) Warrants or warrant notes of the State in an amount at least equal in their face value to the amount of the deposit with the depository; or
- (7) Bonds, notes, debentures or other evidences of indebtedness of any other state of the United States, for which the payment of the interest and principal is a direct obligation of such state, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
- (8) Bonds, notes, debentures or other evidences of indebtedness of any city or of any county in the continental United States, for which the payment of the interest and principal is a direct obligation of the city or county, as the case may be, in an amount at least equal in their market value, but not to exceed their par value, to the amount of the deposit with the depository; or
- (9) Other safe bonds, notes, debentures or other evidences of indebtedness as may be approved by the governor and the director, in an amount and value to the amount of the deposit with the depository as is determined by the director.
- (10) Residential mortgage loans insured or guaranteed by the United States to the maximum extent permissible under appropriate federal regulations; provided that the director shall require mortgage loans representing no less than \$120 of the unpaid principal for each \$100 of deposits.

Security shall not be required for that portion of any deposit that is insured under any law of the United States.

Securities deposited under this section may be withdrawn from time to time; provided that the required amount of securities shall at all times be kept

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on deposit. The director may at any time require additional securities to be deposited under this section.

In the event that the depository shall fail to pay such deposits, or any part thereof, upon presentation of a check or a certificate of deposit, then the director shall forthwith convert the securities deposited under this section into money for and on behalf of the State; provided that no such securities shall be sold except at public auction, after giving at least ten days' notice by publication in some newspaper of general circulation in the State.

Section 38-4. Provisions of depository contracts. Any acceptance by a depository of treasury moneys shall constitute an acceptance of the provisions of sections 38-2 and 38-3, and those provisions shall be deemed a part of and incorporated into the contract of deposit without any necessity for specific mention thereof. The director shall file with the comptroller a copy of any formal written contract of deposit which may be entered into.

Section 38-5. Indemnity bond from depository. The director with the approval of the governor, shall, if in his judgment it appears necessary for the security of the State, require the depository to give indemnity bonds, the sureties on which shall not be interested as stockholders in the depository, to be approved by the governor and director to secure the State against the loss of any depreciation in value that may occur in the bonds held by him as security for the safekeeping and prompt payment of the money of the State in the depository.

Section 38-6. Certificates of deposit, deposit receipts. At the time of depositing State money in any depository, the director shall take certificates of deposit payable to the director in such sums as he deems advisable, or a receipt showing that the deposit is subject to check. The certificates of deposit, receipts, and all balances of these deposits shall be deemed and counted as cash.

Section 38-7. Responsibility of director. The director shall not be responsible for any moneys deposited in a depository under this chapter, but the State through its director shall be chargeable with the safekeeping of the bonds deposited with him as security for deposits of State money, and of the proceeds of any sale of the bonds made under this chapter.

Section 38-8. Additional responsibility. The State through its director shall be chargeable with the safekeeping of the securities deposited with him by the treasurers of the several counties under section 46-52.

Section 38-9. Interest. If any money deposited by the director under this chapter belongs to any special fund, then any interest received on the same shall be paid into and credited to the special fund.

Section 38-10. Interest on loan funds. All unexpended balances of State loan funds which have been allotted to the several counties for local improvements, and also all State loan funds which are so allotted, shall be deposited by the director in a depository in separate accounts. All interest received from any depository, on account of the separate deposits, shall be credited to the respective counties."

SECTION 2. This Act shall take effect upon its approval.
(Approved June 5, 1970.)

ACT 52

S. B. NO. 1827-70

A Bill for an Act Repealing Section 88-86 Hawaii Revised Statutes Relating to Pension Offset by Compensation Benefits under the Employees Retirement System of the State of Hawaii.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 88-86, Hawaii Revised Statutes, is hereby repealed.

SECTION 2. This Act shall take effect upon its approval.
(Approved June 5, 1970.)

ACT 53

H. B. NO. 275

A Bill for an Act Relating to Workmen's Compensation and Amending Chapter 386, Hawaii Revised Statutes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 386-51, Hawaii Revised Statutes, is amended to read as follows:

"Section 386-51. Computation of average weekly wages. Average weekly wages shall be computed in such a manner that the resulting amount represents most fairly, in the light of his employment pattern and the duration of his disability, the injured employee's average weekly wages from all covered employment at the time of the personal injury. In no event, however, shall an employee's average weekly wages be computed to be less than his hourly rate of pay multiplied by thirty-five.

- (1) Where appropriate and feasible such computation shall be made on the basis of the injured employee's earnings from covered employment during the twelve months preceding his personal injury; but if during that period, the employee, because of sickness or similar personal circumstances was unable to engage in employment for one or more weeks then the number of such weeks shall not be included in the computation of the average weekly wage.
- (2) Where an employee at the time of the injury was employed at higher wages than during any other period of the preceding twelve months then his average weekly wages shall be computed exclusively on the basis of such higher wages.
- (3) Where, by reason of the shortness of the time during which the employee has been in the employment or the casual nature or terms of the employment, it is not feasible to compute the average weekly wages on the basis of the injured employee's own earnings from such employment, regard may be had to the average weekly wages which during the twelve months preceding the injury was being earned by an employee in comparable employment.

- (4) In no case shall the total average weekly wages of any employee be computed at a lower amount than the average weekly wages earned at the time of the injury by an employee in comparable employment engaged as a full-time employee on an annual basis in the type of employment in which the injury occurred.
- (5) If an employee, while under twenty-five years of age, sustains a work injury causing permanent disability or death, his average weekly wages shall be computed on the basis of the wages which he would have earned in his employment had he been twenty-five years of age.
- (6) The director of labor and industrial relations may issue rules for the determination of the average weekly wages in particular classes of cases, consistent with the principles laid down in the first paragraph of this section."

SECTION 2. Chapter 386, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

"Section 386- . Limited liability in concurrent employment. Where an employee is concurrently engaged in more than one employment covered by this chapter and sustains a personal injury in one employment under conditions specified in section 386-3, the liability of the employer shall be limited to the benefits as would be payable had the employee no other employment than the one in which he was injured; provided that if the employment in which the employee sustained the injury is a part-time employment, the employer's liability shall be limited to the benefits as would be payable to an employee in a comparable employment, engaged as a full-time employee on an annual basis in the type of employment in which the injury occurred. The balance of the employee's benefits shall be paid from the special compensation fund, except that benefits for disability rated as a percentage of total impairment of physical or mental function of the whole man shall be the sole liability of the employer."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 6, 1970.)

ACT 54

H. B. NO. 528

A Bill for an Act Relating to the Retail Installment Sales Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 476-29, Hawaii Revised Statutes, is amended to read as follows:

"Section 476-29. Additions to and consolidations of retail installment contracts. Where a buyer makes any subsequent purchases of goods from a seller from whom he has previously purchased goods under one or more retail install-

* Edited accordingly

ment contracts, and the amounts under the contract or contracts have not been fully paid, the subsequent purchases may be included in and consolidated with one or more of the prior contract or contracts. A memorandum of such additional purchases shall be prepared by the seller, inserted in or attached to the seller's counterpart of the contract and shall set forth:

- (1) A description of the additional goods so purchased;
- (2) The consolidated total indebtedness of the buyer;
- (3) The finance charge stated either as (A) additional amount on the subsequent purchases, (B) the total amount on the consolidated contract, or (C) a percentage of the monthly outstanding balance;
- (4) The revised installment payments.

A copy of the memorandum shall be furnished to the buyer prior to the due date of the first installment following the purchase.

When such subsequent purchase is made, the entire amount of all payments made previous to the subsequent purchase shall be applied toward the payment of the previous purchase or purchases and each payment thereafter received shall be first applied to the payment of purchases first made. To the extent purchases are paid for according to this section, security interests in the goods which are the subject matter of the retail installment sale shall terminate as the payment with respect to each purchase is made.

Payments received by the seller upon a revolving charge account shall be applied first to the payment of finance charges in the order of their entry to the account and then to the payment of purchases in the order in which the entries to the account showing the purchases were made.

If the contracts consolidated arose from two or more purchases made on the same day, payments received by the seller shall be applied first to the payment of the purchase totaling the smallest amount.

This section shall not apply in cases involving equipment, parts, or other merchandise attached or affixed to goods previously purchased or repairs or services rendered by the seller in connection therewith at the buyer's request."

SECTION 2. Chapter 476, Hawaii Revised Statutes, is amended by adding thereto a new section to be appropriately numbered and to read as follows:

Section 476- . Balloon payments. With respect to any sale of goods purchased primarily for a personal, family or household purpose, which is subject to the provisions of this chapter, if any scheduled payment is more than twice as large as the average of earlier scheduled payments, the buyer has the right to refinance the amount of that payment at the time it is due without penalty. The terms of the refinancing shall be no less favorable to the buyer than the terms of the original sale. These provisions do not apply to the extent that the payment schedule is adjusted to the seasonal or irregular income of the buyer.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

* Edited accordingly

SECTION 4. This Act shall take effect upon its approval.
(Approved June 6, 1970.)

A Bill for an Act Amending Section 53-60, Hawaii Revised Statutes, Relating to the Creation of a Board of Appeals to Hear Matters Involving the Repair, Closing and Demolition of Dwellings Unfit for Human Habitation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 53-60, Hawaii Revised Statutes, is hereby amended to read as follows:

“Sec. 53-60 Ordinance relating to repair, closing, and demolition of dwellings unfit for human habitation. (a) Whenever any county finds that there exists in urban areas in the county dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents, or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions, including those set forth in subsection (c) hereof, rendering the dwelling unsafe or unsanitary, or dangerous or detrimental to the health, safety, or welfare, or otherwise inimical to the welfare of the residents of the county, power is hereby conferred upon the county to require or cause the repair, closing or demolition or removal of the dwellings in the manner herein provided. A “dwelling” means any building, or structure, or part thereof, used and occupied for human habitation or intended to be so used, and includes any appurtenances belonging thereto or usually enjoyed therewith.

(b) Upon the adoption of an ordinance finding that dwelling conditions of the character described in subsection (a) hereof exist within a county, the council may adopt ordinances relating to the dwellings within the county which are unfit for human habitation. The ordinances shall include the following provisions except as otherwise provided by chapter 91:

- (1) That a public officer be designated or appointed to exercise powers prescribed in the ordinance, and that a board of appeals be created to conduct hearings prescribed hereinafter and setting forth the qualifications, the manner of appointment and term of office of its members.
- (2) That whenever a petition is filed with the public officer by at least five residents of the county charging that any dwelling is unfit for human habitation or whenever it appears to the public officer (on his own motion) that any dwelling is unfit for human habitation, he shall, if his preliminary investigation discloses a basis for the charges, issue and cause to be served upon the owner, every mortgagee of record, and all parties in interest in the dwelling (including persons in possession) a complaint stating the charges in that respect. Such complaint shall contain a notice that a hearing will be held before the board of appeals at a place therein fixed not less than ten days nor more than thirty days after the serving of the complaint; that the owner, mortgagee, and parties in interest shall be given the right to file an answer to

the complaint and to appear in person or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the board of appeals.

- (3) That the board of appeals may administer oaths, affirmations, examine witnesses and receive evidence, and that if, after such notice and hearing, the board of appeals determines that the dwelling under consideration is unfit for human habitation it shall state in writing its findings of fact in support of the determination and shall issue and cause to be served upon the owner thereof an order which,

- (A) If the repair, alteration, or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling (the ordinance of the county shall fix a certain percentage of the cost as being reasonable for the purpose), requires the owner, within the time specified in the order, to repair, alter, or improve the dwelling to render it fit for human habitation or to vacate and close the dwelling as a human habitation; or

- (B) If the repair, alteration, or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling (the ordinance of the county shall fix a certain percentage of the cost as being reasonable for the purpose), requires the owner, within the time specified in the order, to remove or demolish the dwelling.

- (4) That, if the owner fails to comply with an order to repair, alter, or improve or to vacate and close the dwelling, the public officer may cause the dwelling to be repaired, altered, or improved, or to be vacated and closed.

- (5) That, if the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause the dwelling to be removed or demolished.

- (6) That the amount of the costs of the repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred. If the dwelling is removed or demolished by the public officer he shall sell the materials of the dwelling and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited with the clerk of the circuit court of the circuit in which the county is situated, by the public officer, shall be secured in such manner as may be directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court.

(c) An ordinance adopted by a county pursuant to this section shall provide that the public officer or the board of appeals may determine that a dwelling is unfit for human habitation if it is found that conditions exist in such

dwelling which are dangerous or injurious to the health, safety, or welfare of the occupants of such dwelling, the occupants of neighboring dwellings, or other residents of such county, or which have a blighting influence on properties in the area. The conditions may include the following, without limitation: defects therein increasing the hazards of fire, accident or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; uncleanness; overcrowding; inadequate ingress and egress; inadequate drainage; or any violation of health, fire, building or zoning regulations, or any other laws or regulations relating to the use of land and the use and occupancy of buildings and improvement. Such ordinance may provide additional standards to guide the public officer or his agents or employees or the board of appeals in determining the fitness of a dwelling for human habitation.

(d) Complaints or orders issued pursuant to an ordinance adopted under this section shall be served upon persons either personally or by registered mail, but if the whereabouts of the persons is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer makes an affidavit to that effect, then the serving of the complaint or order upon the persons may be made by publishing the same once each week for two consecutive weeks in a newspaper printed and published in the county, or, in the absence of such newspaper, in one printed and published in the State and circulating in the county in which the dwellings are located. A copy of the complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of the complaint or order shall also be filed with the registrar of conveyances or, in the case of registered land, with the assistant registrar of the land court as provided in section 501-136, and the filing of the complaint or order shall have the same force and effect as other *lis pendens* notices provided by law.

(e) Any person affected by an order issued by the board of appeals may petition the circuit court for an injunction restraining the public officer from carrying out the provisions of the order and the court may, upon such petition, issue a temporary injunction restraining the public officer pending the final disposition of the cause, provided that the petition is filed within sixty days after the posting and service of the order of the board of appeals. Hearings shall be held by the court on such petitions within twenty days, or as soon thereafter as possible, and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter a final order or decree in the proceeding. In all the proceedings the findings of the board of appeals as to the facts, if supported by evidence shall be conclusive. Costs shall be in the discretion of the court. Except as otherwise provided in chapter 91, the remedies herein provided shall be exclusive remedies and no person affected by an order of the board of appeals shall be entitled to recover any damages for action taken pursuant to any order of the board of appeals, or because of compliance by the person with any order of the board of appeals.

(f) An ordinance adopted by the board may authorize the public officer to exercise such powers as may be necessary or convenient to carry out and ef-

fectuate the purposes and provisions of this section, including the following powers in addition to others herein granted:

- (1) To investigate the dwelling conditions in the county in order to determine which dwellings therein are unfit for human habitation;
- (2) To enter upon premises for the purpose of making examinations, provided that the entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted;
- (3) To appoint and fix the duties of such officers, agents, and employees as he deems necessary to carry out the purposes of such ordinance;
- (4) To delegate any of his functions and powers under the ordinance to such officers, agents, and employees as he may designate.

(g) The board adopting an ordinance under this section shall as soon as possible thereafter prepare an estimate of the annual expenses or costs to provide the equipment, personnel, and supplies necessary for periodic examinations and investigations of the dwellings in the county for the purpose of determining the fitness of the dwellings for human habitation, and for the enforcement and administration of its ordinance or ordinances adopted under this section.

(h) Nothing in this section shall be construed to abrogate or impair the powers of the courts or of any department of any county or the State to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law.

(i) Nothing in this section shall be construed to impair or limit in any way the power of the county or of the department of health of the State to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise.

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1970.)

ACT 56

H. B. NO. 1332-70

A Bill for an Act Relating to the Retail Installment Sales Act and Cancellation of Certain Contracts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 476-1, Hawaii Revised Statutes, is amended by amending the first sentence of the definition of "House-to-house sale" to read as follows:

* Edited accordingly

“Sec. 476-1 Definitions. In this chapter, unless the context or subject matter otherwise requires:

“Goods” means all chattels personal other than money and things in action, except as herein provided, and includes emblements, growing crops, and things which attach to or form a part of land which are agreed to be severed before sale under the retail installment contract and things which at the time of sale or subsequently are to be so affixed to real property as to become a part thereof, whether or not severable therefrom. The term includes merchandise certificates or coupons, issued by a retail seller, to be used in their face amount in lieu of cash in exchange for goods sold by such a seller. The term also includes services as herein defined.

“Services” means work, labor, or services of any kind whether purchased primarily for personal, family, household, commercial, or business use, and whether or not furnished in connection with the delivery, installation, servicing, repair, or improvement of goods, and includes repairs, alterations, or improvements upon or in connection with real property.

“Retail buyer” or “buyer” means any person who buys goods from a retail seller in a retail installment sale and who executes a retail installment contract in connection therewith.

“Retail seller” or “seller” means a person engaged in the business of selling goods to retail buyers.

“Retail installment sale” or “sale” means and includes any sale, other than for the purpose of resale, of goods to a retail buyer pursuant to a retail installment contract providing for payment of a time sale price. The cash sale price of the goods and the amount, if any, included for insurance and other benefits, official fees, and finance charge shall together constitute the time sale price.

“Retail installment contract” or “contract” means and includes any agreement, including a conditional sale contract or any other form of instrument, evidencing an obligation to pay the purchase price, or moneys advanced in payment of the purchase price, of goods, by payment thereof in two or more installments over a period of time, whether or not the contract contains a title retention provision. This term includes any contract for the bailment or leasing of goods by which the bailee or lessee contracts to pay as compensation a sum substantially equivalent to or in excess of its value and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner of the goods upon full compliance with the terms of the contract.

“Cash sale price” means the cash sale price stated in a retail installment contract for which the seller would sell to the buyer, and the buyer would buy from the seller, the goods which are the subject matter of the retail installment contract if the sale were a sale for cash instead of a retail installment sale. The cash sale price may include any taxes, registration, license, and other fees and charges for accessories and their installation and for delivering, servicing, repairing, or improving the goods.

“Official fees” means the filing or other fees required by law to any governmental agency for the recording, registering, or filing of any documents necessary in connection with the transaction; provided, that nothing herein

shall be deemed to require the recording, registering, or filing of any document, except as provided by law.

“Finance charge” means the amount, however denominated or expressed, which the retail buyer contracts to pay or pays for the privilege of purchasing goods to be paid for in installments under the terms of the retail installment contract; it does not include the amounts, if any, charged for insurance or other benefits, delinquency charges, attorneys’ fees, court costs, or collection fees and expenses.

“Person” means an individual, partnership, corporation, association, or other group however organized.

“Referral sale” means a sale of goods, subject to this chapter, in which part of the inducement offered by the seller is a rebate, discount, commission, or other consideration to be given the buyer when the latter either sells or gives information leading to a sale, by the seller, of the same or related goods.

“Total sale price” means the sum of the cash sale price, official fees, finance charge, the amounts charged for insurance and other benefits, if any, and all other fees and charges related to the sale.

“House-to-house sale” means (1) a sale of goods or services solicited in person and signed by the buyer at a place other than the seller’s business address shown on the contract; or (2) a sale of goods or services solicited in person or by mail, telephone, or public or private notice or advertisement if the solicitation includes an offer of a gift, prize, premiums, stamps, coupons, tickets or other redeemable devices as an inducement for the person solicited or a member of his immediate family to go to the seller’s place of business, whether the buyer signs at the seller’s place of business or elsewhere. It does not include a sale of goods or services incidental to the performance of an existing contract provided the cash sale price of such goods or services does not exceed the cash sale price of the existing contract and the existing contract was not solicited in person and signed by the buyer at a place other than the seller’s place of business.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1970.)

ACT 57

H. B. NO. 1687-70

A Bill for an Act Relating to the Exemption of Crop Shelters from Real Property Taxation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 246, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

* Edited accordingly

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“Sec. 246- . Crop shelters. Any other law to the contrary notwithstanding, any structure constructed or installed on any taxable real property consisting of wooden or metal frames or supports and covered by flexible plastic or fiber glass material for the protection of crops shall be exempted in determining and assessing the value of such taxable real property, provided that such exemption shall continue only as long as the structure is maintained in good condition. Structures constructed of wooden lathes or permanent hot houses shall not be included in the exemption.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1970.)

ACT 58

S. B. NO. 266

A Bill for an Act Amending Section 386-8 of the Hawaii Revised Statutes Relating to the Liability of Third Persons under the Workmen's Compensation Law.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 386-8, Hawaii Revised Statutes, is amended to read as follows:

“§386-8 Liability of third person. When a work injury for which compensation is payable under this chapter has been sustained under circumstances creating in some person other than the employer or another employee of the employer acting in the course of his employment a legal liability to pay damages on account thereof, the injured employee or his dependents (hereinafter referred to collectively as the employee) may claim compensation under this chapter and recover damages from such third person.

If the employee commences an action against such third person he shall without delay give the employer written notice of the action and the name and location of the court in which the action is brought by personal service or registered mail. The employer may, at any time before trial on the facts, join as party plaintiff.

If within nine months after the date of the personal injury the employee has not commenced an action against such third person, the employer, having paid or being liable for compensation under this chapter, shall be subrogated to the rights of the injured employee. Except as limited by chapter 657, the employee may at any time commence an action or join in any action commenced by the employer against such third person.

No release or settlement of any claim or action under this section is valid without the written consent of both employer and employee. The entire amount of the settlement after deductions for attorneys' fees and costs as hereinafter provided, is subject to the employer's right of reimbursement for his

* Edited accordingly

compensation payments under this chapter and his expenses and costs of action.

If the action is prosecuted by the employer alone, the employer shall be entitled to be paid from the proceeds received as a result of any judgment for damages, or settlement in case the action is compromised before judgment, the reasonable litigation expenses incurred in preparation and prosecution of such action, together with a reasonable attorney's fee which shall be based solely upon the services rendered by the employer's attorney in effecting recovery both for the benefit of the employer and the employee. After the payment of such expenses and attorney's fee, the employer shall apply out of the amount of the judgment or settlement proceeds an amount sufficient to reimburse the employer for the amount of his expenditure for compensation and shall pay any excess to the injured employee or other person entitled thereto.

If the action is prosecuted by the employee alone, the employee shall be entitled to apply out of the amount of the judgment for damages, or settlement in case the action is compromised before judgment, the reasonable litigation expenses incurred in preparation and prosecution of such action, together with a reasonable attorney's fee which shall be based solely upon the services rendered by the employee's attorney in effecting recovery both for the benefit of the employee and the employer. After the payment of such expenses and attorney's fee the court shall, on application of the employer, allow as a first lien against the amount of the judgment for damages, the amount of the employer's expenditure for compensation.

If the action is prosecuted both by the employee and the employer, in a single action or in consolidated actions, and they are represented by the same agreed attorney or by separate attorneys, there shall first be paid from any judgment for damages recovered, or settlement proceeds in case said action or actions be settled before judgment, the reasonable litigation expenses incurred in preparation and prosecution of such action or actions, together with reasonable attorney's fees based solely on the services rendered for the benefit of both parties where they are represented by the same attorney, and where they are represented by separate attorneys, based solely upon the service rendered in each instance by the attorney in effecting recovery for the benefit of the party represented. After the payment of such expenses and attorneys' fees there shall be applied out of the amount of the judgment for damages, or settlement proceeds, an amount sufficient to reimburse the employer for the amount of his expenditure for compensation and any excess shall be paid to the injured employee or other person entitled thereto.

In the event that the parties are unable to agree upon the amount of reasonable litigation expenses and the amount of attorneys' fees under this section then the same shall be fixed by the court.

After reimbursement for his compensation payments the employer shall be relieved from the obligation to make further compensation payments to the employee under this chapter up to the entire amount of the balance of the settlement or the judgment, if satisfied, as the case may be, after deducting the costs and expenses, including attorneys' fees.

The amount of compensation paid by the employer or the amount of

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compensation to which the injured employee is entitled shall not be admissible in evidence in any action brought to recover damages.

Another employee of the same employer shall not be relieved of his liability as a third party, if the personal injury is caused by his wilful and wanton misconduct.

If the special compensation fund has paid or is liable for any compensation under this chapter, the fund shall be entitled to all the rights and remedies granted an employer under this section; provided that the employer's right to reimbursement for compensation payments and expenses under this chapter shall have priority."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1970.)

ACT 59

S. B. NO. 1230-70

A Bill for an Act Relating to the Department of Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The second paragraph of section 26-12, Hawaii Revised Statutes, is amended to read:

"Under policies established by the board, the superintendent shall administer programs of education and public instruction throughout the State, including education at the pre-school, primary and secondary school levels, adult education, library services, transcribing services for the blind, health education and instruction (not including dental health treatment transferred to the department of health), and such other programs as may be established by law."

SECTION 2. The third sentence of section 298-2, Hawaii Revised Statutes, is amended to read:

"The schools may include high schools, kindergarten schools, schools or classes for pregrade education, boarding schools, evening as well as day schools."

SECTION 3. Material to be repealed is bracketed. In printing this Act, the revisor of statutes need not include the brackets or the bracketed material.*

SECTION 4. This Act shall take effect on July 1, 1970.

(Approved June 6, 1970.)

ACT 60

S. B. NO. 1574-70

A Bill for an Act Relating to Tort Liability of "Peer Review" Committee Members.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. A new section is added to chapter 663, Hawaii Revised Statutes, to be appropriately numbered and to read as follows:

* Edited accordingly

“Sec. 663- . Professional society; peer review committee; no liability; exceptions. (a) As used in this section, ‘professional society’ or ‘society’ means any association or other organization of persons engaged in the same profession or occupation, the membership of which comprises a majority of the people engaged in the profession or occupation in the area which it serves and a primary purpose of which is to maintain the professional standards of the persons engaged in its profession or occupation; and ‘peer review committee’ or ‘committee’ means a committee created by a professional society, or by the medical staff of a licensed hospital, whose function is to maintain the professional standards established by the bylaws of the society or the hospital of the persons engaged in its profession or occupation, or in its hospital.

(b) There shall be no civil liability for any member of a peer review committee for any acts done in furtherance of the purpose for which the committee was established; provided that:

- (1) the member was authorized to perform in the manner in which he did; and
- (2) the member acted without malice after having made a reasonable effort to ascertain the truth of the facts upon which he acted.

(c) This section shall not be construed to confer immunity from liability upon any professional society or hospital, nor shall it affect the immunity of any shareholder or officer of a professional corporation.”

SECTION 2. This Act shall take effect upon its approval.

(Approved June 6, 1970.)

ACT 61

S. B. NO. 1983-70

A Bill for an Act Relating to Exclusions from the Total Indebtedness of the State and the Certification of such Exclusions.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 39 of the Hawaii Revised Statutes is hereby amended by adding thereto a new part to be numbered, captioned and read as follows:

“PART IV. DETERMINATIONS OF EXCLUSIONS FROM THE TOTAL INDEBTEDNESS OF THE STATE AND CERTIFICATION THEREOF.

Section 39- . Definitions. As used in this part, the following words and terms shall have the following meanings:

‘Fiscal year’ shall mean the twelve months’ period beginning on July 1 of one calendar year and ending on June 30 of the next succeeding calendar year.

‘Net general fund revenues’ shall mean for any fiscal year the amount of moneys paid into the general fund in the fiscal year, less the amounts paid therein in the fiscal year (i) received as grants from the federal government and (ii) in reimbursement of the payment therefrom during such year of the principal and interest of reimbursable general obligation bonds of the State that are

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excluded in computing the total indebtedness of the State for the purposes of section 3 of article VI of the Constitution, as determined in accordance with the provisions of this part.

'Reimbursable general obligation bonds' shall mean general obligation bonds of the State (a) issued for an undertaking, improvement or system from which revenues, user taxes, or a combination of both may be derived, for the payment from the general fund of the principal and interest of which reimbursement is required by law to be made to the general fund from the revenue, user tax receipts or combination of both derived from the undertaking, improvement or system, and (b) issued for a political subdivision of the State, for the payment from the general fund of the principal and interest of which reimbursement is required by law to be made to the general fund from the revenue of the political subdivision.

As used in this part, the words and terms 'bonds', 'general obligation bonds', 'revenue bonds', 'user tax', 'net revenue' and 'net user tax receipts' shall have the respective meanings and inclusions given to such words and terms in section 3 of article VI of the Constitution.

Section 39- . State Debt Statement. The director of finance shall annually ascertain and set forth in a table or other summary a statement of the total indebtedness of the State as of November 1 of each year. The statement shall include the following:

1. The total indebtedness of the State, including both authorized but un-issued bonds and issued and outstanding bonds; general obligation bonds and revenue bonds; and bonds which may be excluded under section 3 of article VI of the Constitution when determining the total indebtedness of the State for the purposes of that section and bonds which may not be so excluded, showing the amount of each type of such indebtedness.
2. The amount of the total indebtedness of the State which may be excluded under section 3 of article VI of the Constitution when determining the total indebtedness of the State for the purposes of that section. There shall be itemized and shown the amounts which may be excluded under each of clauses (a) through (b) of said section; in the case of revenue bonds, the undertaking, improvement or system for which such bonds are issued or are to be issued; and in the case of reimbursable general obligation bonds, the undertaking, improvement, system or political subdivision for which such bonds are issued or to be issued, and, except as to such bonds issued for a political subdivision, the revenues, user taxes, or both, from which the reimbursement to the general fund for the payment of the principal and interest of such bonds is to be made.
3. The amount of the total indebtedness of the State which may not be excluded when determining the total indebtedness of the State for the purposes of section 3 of article VI of the Constitution.

4. The amount of indebtedness of the State required to be paid or retired from such November 1 to and including the first day of the next succeeding fiscal year.
5. The net general fund revenues for each of the three preceding fiscal years, the average of such net general fund revenues and the figure which is three and one-half times such average.

The items required above to be set forth in the statement may be disclosed in such manner or arrangement as the director of finance may deem advisable, and need not be separately stated if the captions, headings or groupings disclose the information required to be set forth.

The director of finance shall also prepare and attach to the statement such supporting schedules as may be required to set forth in detail the bonds included in the itemizations required by subdivisions 1 and 2 above of this section. The supporting schedules shall also set forth a finding and determination of the net general fund receipts for the preceding fiscal year by setting forth the following for the preceding fiscal year:

- (i) the total of the moneys paid into the general fund in such fiscal year;
- (ii) the total of the moneys paid into the general fund in such fiscal year received as grants from the federal government;
- (iii) the total of the moneys paid into the general fund in such fiscal year from revenues, or user taxes, or combination thereof, derived from a public undertaking, improvement or system, to the extent such payments into the general fund were made in reimbursement of the payment during such fiscal year from the general fund of the principal and interest of reimbursable general obligation bonds issued for such undertaking, improvement or system which are to be excluded from the total indebtedness of the State;
- (iv) the total of the moneys paid into the general fund in such fiscal year from the revenue of a political subdivision, to the extent such payments into the general fund were made in reimbursement of the payment during such fiscal year from the general fund of the principal and interest of reimbursable general obligation bonds issued for the political subdivision which are to be excluded from the total indebtedness of the State;
- (v) the result obtained by subtracting from the total required to be set forth in the statement by subdivision (i) above the totals required to be set forth in the statement by subdivisions (ii), (iii) and (iv) above, which result shall constitute the net general fund revenues of the State for the preceding fiscal year.

If payments from the general fund were made in the preceding fiscal year for interest or principal of reimbursable general obligation bonds issued for an undertaking, improvement or system, the supporting schedules shall also set forth in brief and summary form the following with respect to each such undertaking, improvement or system:

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- a. The total of the revenues or user taxes, or both, derived in the fiscal year from or with respect to the undertaking, improvement or system;
- b. The total of the costs of operation, maintenance and repair of the undertaking, improvement or system during the fiscal year;
- c. The total of payments made during the fiscal year of interest and principal on revenue bonds issued for the undertaking, improvement or system;
- d. The total of the payments made during the fiscal year from the general fund for interest and principal on reimbursable general obligation bonds issued for such undertaking, improvement or system;
- e. The amount paid into the general fund during the fiscal year from the total revenues or user taxes, or both, of the undertaking, improvement or system, derived during such fiscal year, after there has been deducted from such total the costs of operation, maintenance and repair of the undertaking, improvement or system for such fiscal year and the required payments of the principal and interest of all revenue bonds issued for the undertaking, improvement or system;
- f. The percentage obtained by dividing the figure required to be set forth in the schedule by subdivision d. above into the figure required to be set forth by subdivision e. above, which percentage shall constitute the percentage of the reimbursable general obligation bonds issued for the undertaking which may be excluded under clause (e) of section 3 of article VI of the Constitution when determining the total indebtedness of the State for the purpose of that section.

The supporting schedule shall also set forth or make reference to relevant statutory, bond ordinance or bond certificate provisions, and any other relevant financial information, necessary to explain or justify the findings and determinations inherent in the statement of indebtedness. The director of finance shall indicate in the supporting schedules whether the financial findings and figures are based upon the records of his office or upon audited statements and reports, and if based upon the latter, shall identify in the schedules the audited reports and statements.

Section 39- . Supplementary Statement. As soon as may be practicable after the effective date of an act authorizing the issuance of bonds, the director of finance shall prepare a supplemental statement with respect to such bonds evidencing that such bonds at the time of authorization thereof either were within the limitations of section 3 of article VI of the Constitution or were excludable at the time of authorization under one of clauses (b), (c), (d), (f) or (g) of section 3 of article VI of the Constitution when determining the total indebtedness of the State for the purposes of that section. The supplemental statement shall be based upon the statement prepared, in accordance with the second section of this part, as of November 1 of the fiscal year in which occurred the session of the legislature at which the bonds were authorized. The supplemental statement shall contain such additional information or revisions as may

be necessary to make current the statement on which it is based. There shall either be included in the supplemental statement or included in supporting schedules attached thereto such legal and financial findings as may be necessary to explain or justify the supplemental statement. A supplemental schedule may be limited solely to bonds eligible under clauses (b), (c), (d), (f) or (g) of section 3 of article VI of the Constitution for exclusion from the total indebtedness of the State when determining such total indebtedness for the purposes of that section, in which case only such findings and information need be set forth in the supplemental statement as are necessary to justify such exclusion.

Section 39- . Legislative Determinations. The provisions of this section shall be applicable to all computations and determinations required for the purposes of section 3 of article VI of the Constitution.

In determining whether an authorization of bonds would cause to be exceeded the limitations on the total indebtedness of the State set forth in section 3 of article VI, or whether such bonds may be excluded from such total indebtedness under clauses (c), (d), (f) or (g) of that section, 'time of authorization' shall mean as to bonds authorized by an act of the legislature which both authorizes the issuance of such bonds and specifies the particular purpose or purposes to which the proceeds of the bonds are to be applied, the day such act becomes effective. If an act of the legislature making appropriations and authorizing the issuance of bonds to finance such appropriations provides that certain of the appropriations to be financed by the issuance of bonds shall take effect on a day or days differing from the day on which shall become effective the remainder of the appropriations made therein to be financed by bonds, 'time of authorization' shall mean as to the principal amount of bonds authorized to be issued to finance an appropriation or appropriations, the respective day or days such appropriation or appropriations become effective. If an item specified by the legislature to be financed by bonds is vetoed by the governor, in whole or by a reduction in the amount thereof, as provided in section 17 of article III of the Constitution and the item or the amount thereof reduced, as the case may be, is not again approved by the legislature as provided in section 18 of article III of the Constitution, that principal amount of bonds authorized by the legislature to finance the item, or portion thereof reduced, as the case may be, shall not be considered to have been authorized. If an act authorizing the issuance of bonds sets forth therein a specific calendar date upon which the act or parts thereof shall become effective in lieu of stating that the act or such parts thereof shall become effective upon approval by the governor and the governor shall approve such act on a later date than the specific calendar date set forth in such act, 'time of authorization' shall mean both such specific calendar date and the day or approval of the act by the governor. If an act of the legislature authorizes the issuance of revenue bonds without reference to any specific appropriation or undertaking, improvement or system to be financed from the proceeds of such bonds, or the issuance of refunding bonds, without any limitation upon the amount of such revenue bonds or refunding bonds which may be issued and without requiring the further approval of the legislature for the issuance of such revenue bonds or refunding bonds, 'time of au-

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thorization' shall mean as to any particular principal amount of such bonds, the day the governor has authorized the issuance thereof if the approval of the governor is required for their issuance or the day of delivery of and payment therefor if the approval of the governor is not required for their issuance.

In determining whether an authorization of bonds would cause to be exceeded the limitations on the total indebtedness of the State set forth in section 3 of article VI, or whether such bonds may be excluded from such total indebtedness under clauses (c), (d), (f) or (g) of that section, the authorization of such bonds and the 'time of authorization' thereof shall be deemed to be made in the same fiscal year in which occurs the session of the legislature enacting the act making the authorization, even though the effective date of the act may occur or be in the next succeeding fiscal year by reason or the definition of 'fiscal year' set forth in the first section of this part.

The state highway system established in part III of chapter 264 shall be deemed to be a public system that produces revenues and user tax receipts. All liquid fuel taxes as defined in section 243-1, other than taxes on aviation fuel as defined in that section, which are paid into the state highway fund created by section 248-8 and which are not required by sections 243-6 and 248-9 to be paid to the counties shall be deemed to be user taxes derived in the utilization of the functions and services furnished by the state highway system.

Amounts received from the federal government for the payment or reimbursement of costs of operation, maintenance and repair of a public undertaking, improvement or system or for the payment of the principal and interest of bonds issued for such public undertaking, improvement or system, may be considered and treated as revenues of such undertaking, improvement or system. If such amounts are deposited in the general fund immediately upon their receipt by the State, such amounts shall be deducted from the general fund revenues when determining the net general fund revenues for the purposes of this part, to the extent such amounts are utilized to justify or support a determination that bonds of the State may be excluded when determining the total indebtedness of the State for the purposes of section 3 of article VI of the Constitution.

Section 39- . Concurrence in Statements; Copies of Statement to Legislature. Upon the preparation by the director of finance of any statement, supplemental statement and support schedules required by the provisions of this part, he shall submit such statement, supplemental statement and supporting schedules to the attorney general for his concurrence as to all legal findings upon which such statement, supplemental statement and supporting schedules are based, and to the comptroller for his concurrence as to all matters therein. The attorney general and the comptroller shall notify the director of finance in writing of their concurrence in such statement, supplemental statement and supporting schedules. If the attorney general or the comptroller shall disagree with any items included in the statement, supplemental statement and supporting schedules, the attorney general or the comptroller, as the case may be, shall notify the director of finance in writing of his concurrence as to all other items and as to the items of disagreement and his reasons therefor. The director of fi-

nance shall thereupon certify the statement, supplemental statement and supporting schedules to the governor and the presiding officers of the legislature, setting forth in such certification any items therein disagreed to by the attorney general or the comptroller. The summary and schedules so certified shall be conclusive as to all items therein concurred to by the attorney general and the comptroller.

The director of finance shall cause to be reproduced and delivered to the legislature by December 1 of each year a sufficient number of copies of the certified statement prepared as of November 1 of such year as required by the second section of this part, so that a copy of the statement may be distributed to each member of the legislature at the next regular session thereof. Only the statement itself shall be required to be reproduced, and the copies need not include any of the supporting schedules required by the second section of this part.

Section 39- . Declaratory Judgment Action. In the event the certification by the director of finance of any statement, supplemental statement and supporting schedules filed with the governor and the presiding officers of the legislature shall set forth therein that the attorney general or the comptroller has disagreed as to any item therein, the governor, at his election, or the legislature at its election, may direct the attorney general to file a declaratory judgment action in the name of the State against the director of finance. Such action may be filed in any circuit court of the State, which courts are hereby vested with jurisdiction over such actions. If the items disagreed to concern only questions of law and all facts involved are stipulated to by the attorney general, comptroller and director of finance, the attorney general at his discretion may file such action in the supreme court, which court is hereby vested with original jurisdiction over such action. Upon any findings and determinations having been made by the court, the director of finance shall revise the statements, supplemental statements and supporting schedules to reflect such findings and determinations and shall certify the revised summary and supporting schedules to the governor and the presiding officers of the legislature.

In the event the certification by the director of finance shall set forth therein that the attorney general or the comptroller has disagreed to any item therein, until such time as the disagreement is resolved by a declaratory judgment action: (a) if the subject matter of the disagreement is concerned with whether certain revenues constitute general fund revenues, or whether such revenues must be deducted in determining net general fund revenues for the purposes of this part, such revenues shall not be considered to be general fund revenues, or shall be deducted in determining net general fund revenues, as the case may be; and (b) if the subject matter of the disagreement is concerned with whether bonds may be excluded under section 3 of article VI of the Constitution in determining the total indebtedness of the State for the purposes of that part, the bonds shall be included in making such determination.

Section 39- . Arrangement of Statements and Schedules and Forms; Incorporation. In preparing the statements, supplemental statements and supporting schedules required by this part, the director of finance may arrange,

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group and set forth information and figures in such manner as he deems necessary or advisable. Such information and figures need not be set out or arranged in the same order as is set forth in this part, so long as the information and figures required by this part are set forth.

All findings certified to in accordance with this part shall be deemed to be incorporated into subsequent statements, supplemental statements and supporting schedules to the extent relevant thereto. Such findings need not be made again in any subsequent statement, supplemental statement or supporting schedule, nor shall the legal and financial basis for such findings need be set forth again.

The director of finance may compose and adopt and have printed or otherwise reproduced any forms he deems will facilitate the preparation and understanding of statements, supplemental statements and supporting schedules required by this part.

All departments, boards, authorities and officers of the State shall cooperate with the director of finance to the extent required to enable him to prepare the statements, supplemental statements and supporting schedules required by this part.

Section 39- . Transitional Provisions. The director of finance shall prepare a statement setting forth in tabular form all bonds of the State authorized but unissued on November 4, 1968. He shall also prepare and attach to such statement such supporting schedules setting forth such information and findings as may be required as will evidence that the bonds at the time or times of authorization thereof were within the limitations of section 3 of article VI of the Constitution as in effect at such time or times.

The director of finance shall also prepare in the manner set forth in the second section of this part a determination of the net general fund revenues of the State for each of the fiscal years ending June 30, 1966 through June 30, 1969. Such determination shall be made by the director as though the amendments to section 3 of article VI of the Constitution had been in effect for the full period of each of such fiscal years. The director shall prepare a supplemental statement as to each authorization of bonds enacted by the legislature at the regular sessions of 1969 and 1970, corresponding to a supplemental statement required by the third section of this part. He shall also prepare a statement or statements of indebtedness on which such supplemental statements shall be based, which statement or statements shall correspond to a statement of indebtedness required by the second sentence* of this part, but in lieu of being made as of November 1 of any year may be made as of the time of authorization of the bonds to which the supplemental schedule pertains. The director shall attach to the statements of indebtedness the determination of net general fund revenues for the fiscal years ending June 30, 1966 through June 30, 1969, and shall prepare and attach to such supplemental statements and statement of indebtedness such supporting schedules as would be attached to a statement or supplemental statement prepared under the second or third sections of this part. The statement of indebtedness and supplemental statements required by

* Probably should read "section".

this paragraph may be combined by the director into a single statement, or may be in two or more statements, as the director may determine.

All statements required by this section shall be submitted to the attorney general and the comptroller for their concurrence and certified to the governor and the presiding officers of the legislature. Such statements so certified shall be conclusive as to all matters therein concurred to by the attorney general and the comptroller.

Section 39- . Legislative Certification as to Bonds Issued for Assessable Improvements. The legislature hereby finds, determines and certifies that: (1) there are no bonds of the State authorized or issued, the only security for which is the properties benefited or improved or the assessments thereon; and (2) there are no general obligation bonds of the State authorized or issued for improvements, the costs of which are to be assessed in whole or in part against properties benefited or improved by such improvements.”

SECTION 2. The revisor of statutes may appropriately number the sections to be added to chapter 39, Hawaii Revised Statutes, pursuant to section 1 of this Act, and may re-word and re-number the references in said sections and make such other formal or verbal changes thereto, as may be necessary to conform with the Hawaii Revised Statutes.

SECTION 3. This Act shall take effect upon its approval.
(Approved June 6, 1970.)

ACT 62

S. B. NO. 2002-70

A Bill for an Act Relating to Cemeteries and Cemetery Salesmen.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 441-25, Hawaii Revised Statutes, is amended to read as follows:

“Section 441-25. License required to act as cemetery or pre-need funeral salesman. No person shall sell, offer to sell, exchange, lease, advertise, or otherwise dispose of any interest in cemetery property, pre-need interment, or pre-need funeral services without an appropriate license previously issued by the cemetery board in compliance with this chapter and the rules and regulations of the board, provided that this requirement shall not apply to:

- (1) A person acting with reference to an occasional sale of his own property or the property of another when acting under a duly executed power of attorney;
- (2) Any person acting as a receiver, trustee in bankruptcy, administrator or executor, trustee acting under a trust agreement, deed of trust or will, or otherwise acting under any order of authorization of any court.

Chapter 467, relating to real estate brokers and salesmen, shall not be applicable to cemetery salesmen.”

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SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1970.)

ACT 63

H. B. NO. 659

A Bill for an Act Relating to Nursing Home Administrators.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER

NURSING HOME ADMINISTRATORS ACT

Section -1. Short title. This Act may be cited as the ‘Nursing Home Administrators Act.’

Section -2. Definitions. As used in this chapter, unless the context otherwise requires:

(a) “Board” means the board of examiners of nursing home administrators.

(b) “Practice of nursing home administration” means the planning, organizing, directing, or controlling of the operation of a nursing home.

(c) “Administrator” means the individual responsible for planning, organizing, directing, and controlling of the operation of a nursing home.

Section -3. License required. Effective July 1, 1970, no person may operate a nursing home in the state without having a license or a temporary license and registered with the board as hereinafter provided. It shall be unlawful for any person not licensed under this chapter to practice or offer to practice nursing home administration or to use any sign, card, or device to indicate that he is licensed and registered as an administrator.

Section -4. Appointment, qualifications, term. The governor shall appoint the members of the board in accordance with section 26-34. The board shall consist of seven members who shall serve for a term of four years. No member shall be appointed to more than two full consecutive terms. Two members shall be administrators duly licensed and registered under this chapter, except that these two members who are appointed to the board prior to January 1, 1972, shall have served as nursing home administrators in the state prior to January 1, 1970.

Section -5. Meetings. The board shall meet annually and shall elect from its members a chairman and a vice-chairman. It may hold such other meetings during the year as may be deemed necessary to transact its business. The majority of the board shall constitute a quorum at any meeting.

* Edited accordingly

Section -6. Powers and duties. The board shall:

(a) Develop, impose, and enforce standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to insure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators;

(b) Develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards;

(c) Issue licenses to individuals determined, after the application of such techniques, to meet such standards, and revoke or suspend licenses previously issued by the board in any case where the individual holding any such license is determined substantially to have failed to conform to the requirements of such standards;

(d) Establish and carry out procedures designed to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards;

(e) Receive, investigate, and take appropriate action with respect to, any charge or complaint filed with the board to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of such standards;

(f) Conduct a continuing study and investigation of nursing homes and administrators of nursing homes within the State with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such;

(g) Adopt in accordance with Chapter 91 such rules and regulations as may be necessary for the purposes of this chapter; and

(h) Maintain a record of all its proceedings.

Section -7. Subpoenas. The board may issue subpoenas to compel the attendance of witnesses and the production of documentary evidence or the production of any books, papers, or records. If any person subpoenaed as a witness fails or refuses to respond thereto, or refuses to answer questions material to the matter pending before the board propounded by an examiner, any circuit judge, upon application of the board or any examiner thereof, may enforce by proper proceeding the attendance and testimony of the witnesses. If any person wilfully testifies falsely under oath before the board or wilfully makes a false affidavit in any proceeding before the board, the person shall be charged for perjury and shall be subject to the penalties for perjury provided by law.

Section -8. Temporary license. The board may issue a temporary license to any person who has served as administrator in the State prior to January 1, 1970. A temporary license shall expire two years after its issuance. In no event shall a temporary license be issued or extended after December 31, 1972.

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Section -9. Fees. An applicant for a license to practice nursing home administration by examination shall pay a fee of \$25. A fee of \$10 is required for each re-examination. Application fees shall not be refundable.

The annual fee for a temporary license or a renewal of license shall be \$25.

Section -10. Injunctive relief. The board may apply for an injunction in any court of competent jurisdiction to enjoin any person who has not been issued a license or registered or whose license has been suspended or revoked or has expired from practicing nursing home administration; and, upon the filing of a verified petition in the court, the court or any judge thereof, if satisfied by affidavit or otherwise, may issue a temporary injunction, without notice or bond, enjoining the defendant from further practicing nursing home administration. A copy of the verified complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other civil cases. If it is established that the defendant has been or is practicing nursing home administration without having been issued a license or registered or has been or is practicing nursing home administration after his license has been suspended or revoked or has expired, the court or any judge thereof may enter a decree enjoining the defendant from further practicing nursing home administration. In case of violation of any injunction issued under this section, the court may summarily try and punish the offender for contempt of court. The injunction proceeding shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter.

Section -11. Severability. If any provision of this chapter, or the application thereof to any person or circumstance is held invalid, the invalidity does not effect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Section -12. Penalties. Any person who violates this chapter shall be fined not more than \$500 for a first offense. For each subsequent offense he shall be fined not more than \$1,000, or imprisoned not more than one year, or both."

SECTION 2. Section 26-9 of the Hawaii Revised Statutes is amended by inserting the phrase "board of examiners of nursing home administrators," after the words "of nursing," in the seventh line of the third paragraph.

SECTION 3. There is hereby appropriated out of the general revenues of the State of Hawaii the sum of \$2,000, or so much thereof as may be necessary, to be expended by the department of regulatory agencies for the purposes of this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 12, 1970.)

A Bill for an Act Relating to Employment Rights of Employees.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 386-141, Hawaii Revised Statutes, is repealed.

SECTION 2. Section 378-32, Hawaii Revised Statutes, is amended to read:

"Sec. 378-32 Unlawful suspension or discharge from employment. It shall be unlawful for any employer to suspend or discharge any of his employees:

- (1) Solely because the employer was summoned as a garnishee in a cause where the employee is the debtor or because the employee has filed a petition in proceedings for a wage earner plan under Chapter XIII of the Bankruptcy Act; or
- (2) Solely because the employee has suffered a work injury which arose out of and in the course of his employment with the employer and which is compensable under Chapter 386 unless the employee is no longer capable of performing his work as a result of the work injury and the employer has no other available work which the employee is capable of performing. Any employee who is discharged because of the work injury shall be given first preference of re-employment by the employer in any position which the employee is capable of performing and which becomes available after the discharge and during the period thereafter until the employee secures new employment. This paragraph shall not apply to any employer in whose employment there are less than three employees at the time of the work injury or who is a party to a collective bargaining agreement which prevents the continued employment or re-employment of the injured employee."

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 12, 1970.)

A Bill for an Act Making an Appropriation for a Methadone Experimental Program for the Treatment of Drug Addiction.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$22,000, or so much thereof as may be necessary, for a methadone experimental program for the treatment of drug addiction.

* Edited accordingly

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SECTION 2. The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 3. This Act shall take effect upon its approval.
(Approved June 12, 1970.)

ACT 66

H. B. NO. 1314-70

A Bill for an Act Relating to Public Officers and Employees.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 40-54 of the Hawaii Revised Statutes is amended to read as follows:

"Section 40-54. Payroll deductions authorized. The comptroller of the State and the auditors of its political subdivisions shall, if so requested in writing by any employee or officer of the State or of any county, deduct from the compensation to the employee or officer for his state or county employment membership dues, group insurance premiums, and contributions for other group benefit plans to any union or organization representing teachers, state, or county employees. After making these deductions, the comptroller or auditor shall pay the money deducted to each organization for the account of the employee or officer."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.
(Approved June 12, 1970.)

ACT 67

H. B. NO. 1934-70

A Bill for an Act Relating to Conditions of Sabbatical Leaves for Department of Education Personnel.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 297-24(1), Hawaii Revised Statutes, is amended to read as follows:

"Sec. 297-24. Conditions of sabbatical leave of absence. A teacher or educational officer on sabbatical leave shall devote one-half of his total leave to professional educational course work, research, or other professional activity approved by the department of education. The department shall establish guidelines and criteria of professional educational course work, research, or other professional activity. Before granting a sabbatical leave to a teacher or educational officer, the department and the teacher or educational officer shall enter into a contract which shall provide for the following:

(1) That the teacher or educational officer agrees to return to serve in the department, the University of Hawaii, or any community college for a period of not less than two years within one year after termination of the teacher's or educational officer's sabbatical leave;"

* Edited accordingly

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 12, 1970.)

ACT 68

H. B. NO. 2115-70

A Bill for an Act Relating to Savings and Loan Associations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 407-84(1), Hawaii Revised Statutes, is amended to read as follows:

"Sec. 407-84 Home loans in excess of eighty per cent of value. An association may also make loans on home property in the State in excess of the limitation of eighty per cent of the unencumbered appraised value thereof, provided that:

- (1) The net proceeds of any such loan do not exceed \$35,000, nor ninety-five per cent of the unencumbered appraised value of the real estate, including leasehold property and the improvements thereon, nor ninety-five per cent of the purchase price, whichever is lower;"

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 12, 1970.)

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S. B. NO. 457

A Bill for an Act Relating to the Taxation of Liquid Fuel for Non-Highway Uses.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 243-4(a), Hawaii Revised Statutes, is amended to read as follows:

"Sec. 243-4 License taxes. (a) Every distributor shall, in addition to any other taxes provided by law, pay a license tax to the department of taxation for each gallon of liquid fuel refined, manufactured, produced, or compounded by the distributor and sold or used by him in the State or imported by the distributor, or acquired by him from persons not licensed distributors, and sold or used by him in the State. Any person who sells or uses any liquid fuel knowing that the distributor from whom it was originally purchased has not paid and is not paying the tax thereon shall pay such tax as would have applied to such sale or use by the distributor himself. The rates of the tax hereby imposed are as follows:

- (1) For each gallon of diesel oil, 1 cent.

* Edited accordingly

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- (2) For each gallon of gasoline or other aviation fuel sold for use in or used for airplanes, 1 cent.
- (3) For each gallon of liquid fuel other than fuel mentioned in items (1) and (2), sold or used in the city and county of Honolulu, or in any county for ultimate use in the city and county of Honolulu, 5 cents State tax, and in addition thereto such amount, to be known as the 'city and county of Honolulu fuel tax', as shall be levied pursuant to section 243-5.
- (4) For each gallon of liquid fuel other than fuel mentioned in items (1) and (2), sold or used in the county of Hawaii, or in any county for ultimate use in the county of Hawaii, 8 cents State tax, of which tax three-eighths, or 3 cents, shall be known as the 'county of Hawaii extra State tax', and in addition thereto such amount, to be known as the 'county of Hawaii fuel tax', as shall be levied pursuant to section 243-5.
- (5) For each gallon of liquid fuel other than fuel mentioned in items (1) and (2), sold or used in the county of Maui, or in any county for ultimate use in the county of Maui, 5 cents State tax, and in addition thereto such amount, to be known as the 'county of Maui fuel tax', as shall be levied pursuant to section 243-5.
- (6) For each gallon of liquid fuel other than fuel mentioned in items (1) and (2), sold or used in the county of Kauai, or in any county for ultimate use in the county of Kauai, 5 cents State tax, and in addition thereto such amount, to be known as the 'county of Kauai fuel tax', as shall be levied pursuant to section 243-5.

If it is shown to the satisfaction of the department, based upon proper records and from such other evidence as the department may require, that liquid fuel other than fuel mentioned in items (1) and (2) is used for agricultural equipment that does not operate upon the public highways of the State, the user thereof may obtain a refund of all taxes thereon imposed by this section in excess of 1 cent per gallon. The department shall prescribe rules and regulations to administer for such refunds."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.
(Approved June 12, 1970.)

ACT 70

S. B. NO. 1252-70

A Bill for an Act Relating to Compensation for Overtime.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 80-4, Hawaii Revised Statutes, is amended as follows:

* Edited accordingly

a. By amending subsection (a) thereof to read:

“(a) The provisions of this section shall apply to:

(1) Every officer or employee of the State or any of its political subdivisions, or of any department, board, commission, or other agency of the State or any of its political subdivisions, where pay is established by chapter 77, except:

(A) Elected officials;

(B) The head of any department, first deputy or first assistant; and

(C) Officers and employees assigned to salary ranges 29 and over;

(2) Students employed by the State or any of its political subdivisions or any department, board, commission, or other agency of the State or any of its political subdivisions, during the students’ summer vacation and on an exempt service basis pursuant to applicable regulations of the department of personnel services.”

b. By amending subsection (e) thereof to read:

“(e) Employees whose basic pay rate does not exceed the minimum for salary range 25 in the salary schedule under section 77-13 shall be paid for all hours worked in excess of the foregoing limitations in cash at the rate of one and one-half hours for each hour of overtime worked.

Employees whose basic pay rate exceeds the minimum for salary range 25 in the salary schedule under section 77-13 shall be paid for all hours worked in excess of the foregoing limitations in cash at the rate of one and one-half times the minimum rate for salary range 25.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 3. Effective Date. This Act shall take effect on July 1, 1970.

(Approved June 12, 1970.)

ACT 71

S. B. NO. 1584-70

A Bill for an Act to Provide for the Regulation of the Practice of Nursing; to Provide for a State Board of Nursing and to Define the Powers and Duties of the Board Including Licensure of Practitioners of Nursing and Establishment of Standards for Educational Programs Preparing for Nursing Practice, and to Prescribe Penalties for Violations of the Provisions of this Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 457, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 457-1 Purpose.** In order to safeguard life and health, any person practicing or offering to practice as a registered nurse or as a licensed practical nurse in this State for compensation, shall be required to submit evidence that

* Edited accordingly

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he or she is qualified to so practice, and shall be licensed as provided in this chapter. After the effective date of this Act, it shall be unlawful for any person not licensed under this chapter to practice or offer to practice nursing as a registered nurse or as a licensed practical nurse or to use any sign, card, or device to indicate that the person is a registered nurse or a licensed practical nurse.

Sec. 457-2 Definitions. As used in this chapter unless the content otherwise requires:

- (1) 'Board' means the State board of nursing.
- (2) 'The practice of nursing as a registered nurse' means the performance for compensation of any act in the observation, care, and counsel of the ill, injured, or infirm, or in the maintenance of health or prevention of illness of others, or in the supervision and teaching of other personnel, or the administration of medications and treatments as prescribed by a licensed physician or dentist, requiring substantial specialized judgment and skill and based on knowledge and application of the principles of biological, physical, and social sciences. The foregoing shall not include acts of medical diagnosis or prescription of therapeutic or corrective measures.
- (3) 'The practice of nursing as a licensed practical nurse' means the performance for compensation of selected acts in the care of the ill, injured, or infirm under the direction of a registered nurse or a licensed physician or a licensed dentist, and not requiring the substantial specialized skill, judgment, and knowledge required in the practice of a registered nurse.

Sec. 457-3 State board of nursing; appointment; term of office; removal from office. There shall be a board of nursing which shall be appointed and may be removed by the governor in the manner prescribed in section 26-34. The board shall consist of seven members, five of whom shall be registered nurses and two of whom shall be licensed practical nurses. There shall be a balance on the board from nursing education and nursing service; provided that the members of the board holding office on the effective date of this Act shall serve as members of the board until the expiration of their respective terms or until their successors have been appointed. The term of office for members of the board shall be three years. No member shall be appointed to more than two consecutive terms or serve more than six years. Five members of the board shall be residents of the city and county of Honolulu and two shall be residents of counties other than the city and county of Honolulu.

Sec. 457-4 Qualifications of board members. Each member of the board shall be a citizen of the United States and a resident of this State and shall file with the lieutenant governor the constitutional oath of office before beginning his or her term of office.

Registered nurse members of the board shall possess the following additional qualifications:

- (1) Graduation from a state-accredited educational program to prepare

for a registered nurse and at least a bachelor's degree in nursing but preferably a graduate degree in nursing;

- (2) Be a registered nurse in the State; and
- (3) Have at least five years of successful experience after graduation in administration or teaching in an educational program to prepare practitioners of nursing and at least three years of active nursing experience immediately preceding appointment or reappointment.

Licensed practical nurse members of the board shall possess the following additional qualifications:

- (1) Graduation from a state-accredited educational program to prepare for a licensed practical nurse.
- (2) Be a licensed practical nurse in the State; and
- (3) Have at least five years of successful experience in the practice of nursing as a licensed practical nurse after graduation and at least three years of active nursing experience as a licensed practical nurse immediately preceding appointment or reappointment.

Sec. 457-5 Duties and powers of board. (a) The board shall hold meetings at such times as it deems necessary. The board shall have a president and a secretary-treasurer who shall be elected annually from its members.

The board may:

- (1) Adopt, amend or repeal such rules and regulations, pursuant to chapter 91, not inconsistent with the law, as may be necessary to enable it to carry into effect this chapter;
- (2) Prescribe standards and approve curricula for educational programs preparing persons for licensure under this chapter;
- (3) Provide for surveys of such educational programs at such times as it may deem necessary;
- (4) Accredite such educational programs as meet the requirements of this chapter and the rules and regulations of the board;
- (5) Deny or withdraw accreditation from educational programs for failure to meet prescribed standards;
- (6) Examine, license, and renew the licenses of qualified applicants;
- (7) Conduct hearings upon charges calling for discipline of a licensee or, denial, suspension, or revocation of a license;
- (8) Exercise the power to issue subpoenas, compel the attendance of witnesses, and administer oaths to persons giving testimony at hearings;
- (9) Cause the prosecution of all persons violating this chapter and to incur necessary expenses therefor;
- (10) Keep a record of all its proceedings; and

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(11) Make an annual report to the governor.

(b) The members of the board shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

Sec. 457-6 Executive secretary; other assistants. (a) Subject to chapters 76 and 77 the department of regulatory agencies may employ and remove such administrative and clerical assistants as the board may require and prescribe their powers and duties.

(b) (1) The department shall employ an executive secretary of the board whose position shall be subject to chapters 76 and 77. The executive secretary shall be employed with due regard to his fitness, thorough administrative ability and knowledge of and experience in the nursing field.

(2) The executive secretary shall, under the supervision of the board, administer this chapter and the rules and regulations and orders established thereunder and perform such other duties as the board may require; he shall be in charge of the offices of the board and responsible to the board for the preparation of reports and the collection and dissemination of data and other public information relating to nursing.

Sec. 457-7 Registered nurses; qualifications; licenses; fees; title; existing licensed nurses. (a) An applicant for a license to practice nursing as a registered nurse shall submit to the board written evidence, verified by oath or affirmation, that the applicant:

(1) Has completed an approved high school course of study or the equivalent thereof as determined by the appropriate educational agency; and

(2) Has completed the required State accredited nursing education program.

(b) Licenses shall be granted either:

(1) By examination: The applicant shall be required to pass a written examination in such subjects as the board may determine. Upon successfully passing such examination, the board shall issue to the applicant a license to practice nursing as a registered nurse; or

(2) By endorsement: The board may issue a license to practice nursing as a registered nurse by endorsement to an applicant who has been licensed as a registered nurse under the laws of another state, territory, or foreign country if, in the opinion of the board, the applicant meets the qualifications required of registered nurses in this State at the time of graduation.

(c) The applicant applying for a license to practice as a registered nurse shall pay a fee of \$20 to the board and a fee of \$5 for each reexamination.

(d) Any person who holds a license to practice nursing as a registered nurse in this State shall have the right to use the title 'Registered Nurse' and the abbreviation 'R.N.'. No other person shall assume such title or use such abbreviation or any other words, letters, signs, or devices to indicate that the person using the same is a registered nurse.

(e) Any person holding a license or certificate of registration to practice nursing as a registered nurse issued by the board which is valid on the effective date of this Act, shall be deemed to be licensed as a registered nurse under this chapter.

Sec. 457-8 Licensed practical nurse; qualifications; license; fees; title; existing licensed nurses. (a) an applicant for a license to practice nursing as a licensed practical nurse shall submit to the board written evidence, verified by oath or affirmation, that the applicant:

- (1) Has completed an approved high school course of study or the equivalent thereof as determined by the appropriate educational agency.
- (2) Has completed a prescribed curriculum in a state-accredited program to prepare for a licensed practical nurse and holds a diploma or certificate therefrom.

(b) Licenses shall be granted either:

- (1) By examination: The applicant shall be required to pass a written examination in such subjects as the board may determine. Upon successfully passing such examination, the board shall issue to the applicant a license to practice nursing as a licensed practical nurse; or
- (2) By endorsement: The board may issue a license to practice nursing as a licensed practical nurse by endorsement to any applicant who has been licensed as a licensed practical nurse, or a person entitled to perform similar services under a different title, under the laws of another state, territory, or foreign country if, in the opinion of the board, the applicant meets the requirements for licensed practical nurses in this State at the time of graduation.

(c) The applicant applying for a license to practice as a licensed practical nurse shall pay a fee of \$10 to the board and a fee of \$3 for each reexamination.

(d) Any person who holds a license to practice nursing as a licensed practical nurse in this State shall have the right to use the title 'Licensed Practical Nurse' and the abbreviation 'L.P.N.'. No other person shall assume such title or use such abbreviation or any other words, letters, signs, or devices to indicate that the person using the same is a licensed practical nurse.

(e) Any person holding a license to practice nursing as a licensed practical nurse issued by the board which is valid on the effective date of this Act, shall be deemed to be licensed as a licensed practical nurse under this chapter.

Sec. 457-9 Renewal of license. The license of every person licensed under this chapter shall be renewed annually, except as hereinafter provided. Annually on or before July 1, the board shall mail an application for renewal of license to every person to whom a license was issued or renewed during the cur-

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rent year. The applicant shall fill in the application blank and return it to the board with a renewal fee of \$3 before June 30 of the following year. Upon receipt of the application and fee the board shall verify the accuracy of the application and issue to the applicant a certificate of renewal for the current year beginning July 1 and expiring the following June 30. Such renewal shall render the holder thereof a legal practitioner of nursing for the period stated on the renewal form.

Any licensee who allows his or her license to lapse by failing to renew the license as provided above may be reinstated by the board on satisfactory explanation of the failure to renew and on payment of the renewal fee and a penalty fee of \$5.

Any person practicing nursing during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subjected to the penalties provided for violations of this chapter.

A nurse who does not engage in nursing in the State during the succeeding year shall not be required to pay the renewal fee as long as he or she remains inactive. Should he or she wish to resume nursing at some future time he or she shall so notify the board and remit the renewal fee for the current annual period.

Sec. 457-10 Disposition of funds. All fees received by the board and monies collected under this chapter shall be deposited by the director of regulatory agencies with the director of finance to the credit of the general fund.

Sec. 457-11 Nursing education programs. (a) An institution desiring to conduct a nursing education program to prepare registered or licensed practical nurses shall apply to the board and submit evidence that:

- (1) It is prepared to carry out a program in undergraduate nursing education or a program in the training of nurses as licensed practical nurses, as the case may be; and
- (2) It is prepared to meet such standards as shall be established by law and by the board.

(b) A survey of the institution and its undergraduate or practical nursing program shall be made by the executive secretary or other authorized employee of the board, who shall submit a written report of the survey to the board. If, in the opinion of the board, the requirements for an accredited nursing education program are met, the program shall be accredited as a nursing education program for registered or licensed practical nurses.

(c) From time to time as deemed necessary by the board, it shall be the duty of the board, through its authorized representative, to survey nursing education programs in the State. Written reports of the surveys shall be submitted to the board. If the board determines that any accredited nursing education program is not maintaining the standards required by law and by the board, notice thereof in writing specifying the discrepancies shall be immediately given to the institution conducting the program. A program which fails to correct these conditions to the satisfaction of the board within a reasonable time shall be discontinued after a hearing held in conformance with chapter 91.

Sec. 457-12 Discipline; grounds; proceedings; hearings. (a) The board shall have the power to deny, revoke, or suspend any license to practice nursing as a registered nurse or as a licensed practical nurse issued by the board or applied for in accordance with this chapter, or otherwise to discipline a licensee upon proof that the person:

- (1) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing as a registered nurse or as a licensed practical nurse; or
- (2) Is guilty of a crime or gross immorality; or
- (3) Is unfit or incompetent by reason of negligence, habits, or other causes; or
- (4) Is habitually intemperate or is addicted to the use of habit-forming drugs; or
- (5) Is mentally incompetent; or
- (6) Is guilty of unprofessional conduct; or
- (7) Has willfully or repeatedly violated any of the provisions of this chapter.

(b) Upon filing of a sworn or affirmed complaint with the board charging a person with having been guilty of any of the actions specified as a ground for disciplinary action, the executive secretary of the board shall fix a time and place for a hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for the hearing to be served on the accused at least ten days prior thereto. When personal service cannot be effected and such fact is certified on oath or affirmation by any person authorized to make legal service, the executive secretary of the board shall cause to be published, twice in each of two successive weeks, a notice of the hearings in a newspaper published in the county in which the accused last practiced according to the records of the board and shall mail a copy of the charges and of such notice to the accused at his or her last known address.

(c) When publication of the notice is necessary, the date of the hearing shall not be less than ten days after the last date of the notice. The attendance of witnesses and the production of books, papers, and documents at the hearing may be compelled by subpoenas issued by the board, which shall be served in accordance with the law. At the hearing the board shall administer oaths as may be necessary for the proper conduct of the hearing. The board shall not be bound by strict rules of procedure or by the laws of evidence in the conduct of its proceedings, but the determination shall be based upon sufficient legal evidence to sustain it. At the hearing the accused shall have the right to appear either personally or by counsel, or both, in his or her own behalf, to cross-examine witnesses, and to have subpoenas issued by the board. If the accused is found guilty of the charges, the board may refuse to issue a license to the applicant or may revoke, suspend a license or otherwise discipline a licensee. A revoked or suspended license may be reissued after one year in the discretion of the board.

Sec. 457-13 Exceptions. This chapter does not prohibit:

- (1) The furnishing of nursing assistance in an emergency.
- (2) The practice of nursing which is incidental to their program of study by students enrolled in nursing education programs accredited by the board.
- (3) The practice of nursing by permit pending the results of licensing examination by graduates of schools whose accreditation is recognized by the board; providing the candidates enter the first licensing examination scheduled by the board following graduation.
- (4) The practice of any legally qualified nurse of another state who is employed by the United States or any bureau, division, or agency thereof, while in the discharge of his or her official duties.
- (5) The practice of nursing in connection with healing by prayer or spiritual means alone in accordance with the tenets and practice of any well recognized church or religious denomination, provided that no person practicing such nursing holds himself out to be a registered nurse or a licensed practical nurse.

Sec. 457-14 Violations of chapter; penalties. It shall be a misdemeanor for any person, including any corporation, association, or individual to:

- (1) Sell or fraudulently obtain or furnish any nursing diploma, license, renewal, or record or aid or abet therein; or
- (2) Practice nursing as defined by this chapter under cover of any diploma, license, or record illegally or fraudulently signed or issued unlawfully or under fraudulent representation; or
- (3) Practice nursing as a registered or as a licensed practical nurse unless licensed to practice under this chapter; or
- (4) Use in connection with his or her name any designation tending to imply that he or she is a registered nurse or a licensed practical nurse unless licensed to practice under this chapter; or
- (5) Practice nursing as a registered nurse or as a licensed practical nurse during the time his or her license issued under this chapter is suspended or revoked; or
- (6) Conduct a nursing education program to prepare for a registered nurse or licensed practical nurse unless the program has been accredited by the board; or
- (7) Otherwise violate any provisions of this chapter.

Such misdemeanor shall be punishable by a fine of not more than \$500 for a first offense. Each subsequent offense shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Sec. 457-15 Injunctive relief. The practice of nursing as a registered nurse or as a licensed practical nurse by any person who has not been issued a license under this chapter or whose license has been suspended or revoked or has expired is declared to be inimical to the public welfare and to constitute a public nuisance. The board of nursing may, through the attorney general, apply for an injunction in any court of competent jurisdiction to enjoin any person who has not been issued a license or whose license has been suspended or revoked or expired, from practicing nursing as a registered nurse or as a licensed practical nurse; and, upon the filing of a verified petition in such court, the court or any judge thereof, if satisfied by affidavit, or otherwise, that such person is or has been practicing nursing as a registered nurse or as a licensed practical nurse without having been issued a license, or after his license has been suspended or revoked or expired, may issue a temporary injunction, without notice or bond, enjoining the defendant from further practicing nursing as a registered nurse or as a licensed practical nurse. A copy of said verified petition shall be served upon the defendant and the proceedings shall thereafter be conducted as in other civil cases. If it be established that the defendant has been or is practicing nursing as a registered nurse or as a licensed practical nurse without having been issued a license or has been or is practicing nursing as a registered nurse or as a licensed practical nurse after his license has been revoked, or expired, the court, or any judge thereof, may enter a decree perpetually enjoining said defendant from further practicing nursing as a registered nurse or as a licensed practical nurse. In case of violation of any injunction issued under this section, the court, or any judge thereof, may summarily try and punish the offender for contempt of court. Such injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter.

Sec. 457-16 Severability. If any provision of this chapter, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application and to this end the provisions of this chapter are severable.”

SECTION 2. This Act shall take effect upon its approval.

(Approved June 12, 1970.)

ACT 72

S. B. NO. 1699-70

A Bill for an Act Relating to Bonds and Insurance for Escrow Depositories.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 449-8, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 449-8 Issuance and renewal of license.** After approval of the application, and payment of the license fee, the bank examiner shall issue to the applicant a license to act as an escrow depository. The license shall be effective only upon the applicant’s filing with the bank examiner an escrow depository’s bond and evidence that fidelity bonds and errors and omissions insurance, or

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cash or securities deposits permitted in lieu thereof, have been obtained, all as provided in sections 449-9, 449-11, and 449-12. The license shall be renewed annually, as of July 1, upon payment of the annual renewal fee and the finding of the bank examiner, from the information contained in the annual corporate exhibit of the licensee or investigation or hearing, that the licensee continues to meet the qualifications for licensing and has continued in force the bonds and insurance or the cash or securities deposits permitted in lieu thereof. An escrow depository's license may not be transferred."

SECTION 2. Section 449-11, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 449-11 Fidelity bonds; deposit. A licensed escrow depository shall at all times either:

- (1) Maintain fidelity bonds executed by a surety insurer authorized to do business in the State and in amounts of not less than \$5,000 and not more than \$25,000, to be approved by the bank examiner; or
- (2) Deposit an equivalent amount of cash or securities under such terms and conditions as are acceptable to the bank examiner,

upon all of its officers and employees who have access to money or negotiable securities or instruments in its possession or under its control. Notwithstanding the above provision, the escrow depository may carry bonds or deposit cash or securities above the amounts required by the bank examiner."

SECTION 3. Section 449-12, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 449-12 Errors and omissions insurance; deposit. A licensed escrow depository shall at all times either:

- (1) Maintain a policy of errors and omissions insurance executed by an insurer authorized to do business in the State in an amount of not less than \$50,000, and not more than \$100,000, to be approved by the bank examiner; or
- (2) Deposit an equivalent amount of cash or securities under such terms and conditions as are acceptable to the bank examiner."

SECTION 4. Section 449-13, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 449-13 Cancellation of bonds or insurance; withdrawal of deposits. None of the bonds or insurance or deposits in lieu thereof required by sections 449-9, 449-11, and 449-12 shall be cancelled or withdrawn as to future accruing liability except upon prior written notice to the bank examiner: sixty days' notice for the bonds or deposits, and thirty days' notice for the insurance. The license of any licensee shall be suspended upon cancellation of any bond or insurance or upon withdrawal of any deposit in lieu thereof."

SECTION 5. Statutory material to be repealed is bracketed. New mate-

rial is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 6. This Act shall take effect upon its approval.
(Approved June 12, 1970.)

ACT 73

S. B. NO. 1743-70

A Bill for an Act to Amend Chapter 286, Hawaii Revised Statutes, Relating to Motor Vehicles.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 286, Hawaii Revised Statutes, is hereby amended as follows:

(a) By amending subsection (3) of section 286-47 to read as follows:

“(3) Whenever a new vehicle is first registered hereunder, the treasurer shall issue a suitable container with the certificate of registration issued for the vehicle. Every owner upon receipt of a certificate of registration shall place the same in the container and shall securely fasten the same in plain sight within the driver’s compartment of the vehicle for which the certificate is issued, or in the event the vehicle is a motorcycle, shall fasten the certificate of registration thereto in plain sight or carry such certificate in the tool bag or other convenient receptacle attached to the vehicle. The container shall be furnished by the treasurer, for which he shall charge a sum not to exceed 50 cents. This requirement to display or carry the certificate of registration with the vehicle shall not apply when such certificate is removed from the vehicle for the purpose of application for renewal, or transfer of registration or to record a change in the registration.”

(b) By amending the last paragraph of section 286-45 to read as follows:

“**Section 286-45. Records of county treasurer.** The treasurer shall file each application received and register the vehicle therein described in a record or book to be kept by him under the following headings:

- (a) Vehicle registration number;
- (b) Name of owner; and
- (c) Vehicle identification number.

The treasurer may microfilm vehicle registration and ownership records which are a year old and may discard the original records. He may discard vehicle registration and ownership records which are older than six years.”

(c) By amending subsection (d) of section 286-26, as amended, to read as follows:

“(d) Every vehicle shall be certified prior to the issuance of a temporary or permanent registration by the treasurer and prior to the transfer of registration; provided that this requirement shall not apply to a subsequent transfer of registration in a motor vehicle which carries a current certificate of inspection.”

* Edited accordingly

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(d) By amending section 286-55.

Certificates lost or mutilated. If any certificate of registration or certificate of ownership is lost, mutilated, or becomes illegible, the person to whom the same has been issued shall immediately make application for and may obtain a duplicate thereof upon furnishing satisfactory information to the treasurer and upon payment of a fee of \$1.

When a certificate of ownership is lost, damaged, mutilated or stolen, the treasurer shall provide to a qualified applicant an application form for a duplicate certificate of ownership. The names and addresses of the transferor and transferee shall be written in the application form and the same, together with the last issued certificate of registration, \$1 for the duplicate certificate of ownership, plus the transfer fee, shall be filed with the treasurer.

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 12, 1970.)

ACT 74

S. B. NO. 1982-70

A Bill for an Act Relating to the Department of Social Services; Making Supplementary Appropriations out of General Revenues to Cover Certain Deficiencies for the Fiscal Year Ending June 30, 1970.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Purpose. Act 154, Session Laws of Hawaii 1969, appropriated a certain designated sum to the department of social services to provide payments for medical services and financial assistance to indigents and medical indigents under the department's economic assistance program for the fiscal period beginning July 1, 1969, and ending June 30, 1970.

To the best of its ability, the department is trying to operate within the appropriated amount for the fiscal year 1969-1970. However, the department is providing for actual caseloads and patient loads in excess of the estimates specified in Act 154, Session Laws of Hawaii 1969. Furthermore, higher costs for patient care are being realized. The amount appropriated by Act 154 is insufficient to carry out the purpose of the economic assistance program for the entire year at the present level of service.

To prevent a breakdown in services, it is urgent that additional moneys be appropriated.

SECTION 2. Appropriation. The following sum, or so much thereof as may be necessary, is hereby appropriated for the purpose hereinafter specified, in addition to any appropriations made for the same purpose by any other act, out of moneys in the treasury received from general revenues:

Social Services, Department of
Economic Assistance - Payments for Indigents
and Medical Indigents\$1,227,215

* Edited accordingly

SECTION 3. Lapsing of appropriation. All unexpended and unencumbered balances of the appropriation made by this Act as of the close of business on June 30, 1970, shall lapse into the general fund of the State.

SECTION 4. Effective date. This Act shall take effect upon its approval.
(Approved June 12, 1970.)

ACT 75

S. B. NO. 1991-70

A Bill for an Act Relating to the Practice of Medicine.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 453-4, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 453-4 Qualifications for examination. Except as otherwise provided by law, no person shall be licensed to practice medicine or surgery unless he has passed an examination and has been found to be possessed of the necessary qualifications.

Before any applicant shall be eligible for such examination he shall furnish proof satisfactory to the board that:

- (1) He (A) is a citizen of the United States; or (B) if not a citizen of the United States, has declared his intention to become a citizen of the United States, as provided by law;
- (2) He has been a resident of the State for at least one year; except that a person who has changed his residence to the State shall have been continuously physically present in the State for at least nine months of his legal residence in the State;
- (3) He is of good moral character;
- (4) (A) He is a graduate of a medical school or college approved by the council on medical education and hospitals of the American medical association; or

(B) He is a graduate of a foreign medical school, who has had at least three years' medical experience or training in a hospital approved by the council on medical education and hospitals of the American medical association for internship or residency, and has passed the qualifying examination of the education council for foreign medical graduates or its successor.
- (5) He has served an internship of at least one year in either a hospital which has been certified or approved for the training of interns and resident physicians by the American medical association, council on medical education and hospitals, or if outside the United States, in a

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hospital which is shown by the applicant to the satisfaction of the board to possess standards substantially the equivalent of those required for such American medical association approval, or has completed one year of residency training in a program approved by the American medical association, council of medical education and hospitals.

Diplomates of the national board of medical examiners or those who have passed the federation licensing examination (FLEX) with scores deemed satisfactory by the board and who meet the requirements of paragraphs (1), (2), (3), (4), and (5) above, shall be licensed without the necessity of any further examination."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.
(Approved June 12, 1970.)

ACT 76

S. B. NO. 1664-70

A Bill for an Act Relating to the Relief of Certain Persons' Claims Against the State and Providing Appropriations Therefor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The following respective sums of money are hereby appropriated out of the general revenues of the State of Hawaii for the purpose of reimbursing the following named persons, firms and corporations for overpayment of taxes or on account of other claims against the State in the amount set opposite their respective names:

Section 37-6, RLH 1955		
REFUND OF TAXES	DIVISION	AMOUNT
Arakaki, Hidenobu (Real Property)	First	\$1,250.71
Denman, Peter (Real Property)	Third	129.31
Guilment, Mike and Avis (Income)	(Warrant No. 194120)	157.75
Kojima, Shigeo and Florence S. (Real Property)	First	331.46
Okamura, R. M. (Real Property)	Third	85.90
Otani, G. (Real Property)	Third	71.91
Peters, Thomas B. (Income)	First	160.15
JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS		AMOUNT
Levy, Esther		\$71,282.66
Satisfaction of the judgment in Civil No. 12493, Esther Levy vs. George P. Kimball, et al. including State of Hawaii		
Richard D. Rogers, Ethel Kaya, et al.,		41,000.00
Settlement of claims in Civils No. 13155, 13487 and 13489 pursuant to Stipulation for Compromise, Settlement and Final Disposition of Claims dated March 6, 1970 and filed in the Circuit Court of The State of Hawaii, First Circuit, on March 10, 1970.		

* Edited accordingly

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Rogers, Richard	78,239.75
Individually and as guardian ad litem for Wendy Rogers and Richard Rogers, Jr., Minors; and Penelope Rogers vs. State of Hawaii and Ethel Kaya.	
Wong, Calvin	15,000.00
Satisfaction of the judgment in Civil No. 25848, Calvin Wong vs. Martin Van & Storage, Chung, Maria, Wiggins and State of Hawaii.	

MISCELLANEOUS CLAIMS

Bell, Elizabeth Kuulei	276.69
Damage to personal effects by flood.	
Besaya, Bacillo	102.00
Damage to personal effects by flood.	
Calsoda, Leilani	82.45
Damage to personal effects by flood.	
Dawson, Stephen	37.05
Damage to personal effects by flood.	
Harada, Winifred	90.00
Damage to personal effects by flood.	
(Estate of) Inkyo, Naka, deceased	99.45
Damage to personal effects by flood.	
Kahatian, Hannah	155.85
Damage to personal effects by flood.	
Kahikina, Benjamin	30.95
Damage to personal effects by flood.	
Kealoha, Edward	10.00
Damage to personal effects by flood.	
Kihe, Walter	15.00
Damage to personal effects by flood.	
Liwai, George	228.20
Damage to personal effects by flood.	
Malo, Elroy	620.00
Damage to personal effects by flood.	
Poouahi, Nona	60.00
Damage to personal effects by flood.	
Saito, Barbara	34.50
Damage to personal effects by flood.	
Salanoa, Sifou	22.00
Damage to personal effects by flood.	
Shigemi, M.	47.45
Damage to personal effects by flood.	
Una, Anita	65.48
Damage to personal effects by flood.	

SECTION 2. The sums hereinabove appropriated shall be paid upon warrants issued by the comptroller of the State upon vouchers approved by the

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director of the State department of taxation in the several amounts and to the respective persons hereinabove set out, as to said claims for taxes, and shall be paid upon warrants issued by said comptroller upon vouchers approved by the director of the department of budget and finance as to all other claims.

SECTION 3. If any portion of this Act or its application to any circumstances or person is held invalid for any reason, the remainder thereof shall not be affected thereby.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 13, 1970.)

ACT 77

S. B. NO. 1836-70

A Bill for an Act Relating to the Progressive Neighborhoods Program.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 362-41, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 362-41. Purpose. Multiproblem neighborhoods have severe health needs. It is apparent that the economic hardships prevalent in these communities make it impossible to support a resident physician without public support. It is the purpose of this part to provide for physicians for the Waianae-Nanakuli, Waimanalo and Hauula multi-problem neighborhoods and any other community in the State determined to be in need of subsidized resident physicians as provided in this part."

SECTION 2. Section 362-42, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 362-42. Community physician contracts. With the approval of the governor, the department of health may enter into agreements with physicians licensed to practice medicine and surgery in the State for the purpose of providing medical services to multiproblem neighborhoods and any other community in the State determined to be in need of subsidized resident physicians as provided in this part, such agreements to provide for the following:

- (1) A guarantee to each physician of not more than \$36,000 from the practice of medicine and surgery, including any subsidy provided by this part, and which shall be subject to taxation to the extent provided for in chapters 235 and 237;
- (2) That the State pay annually to the physician a subsidy to the extent that his annual gross income from the practice of medicine and surgery does not amount to more than \$36,000; and
- (3) That the physician take up residency and be a resident of the community.

The department of health with the approval of the governor may contract with any number of physicians determined to be required in a community, subject to the provisions of this part."

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 13, 1970.)

ACT 78

H. B. NO. 1370-70

A Bill for an Act Relating to the Department of Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. All negotiated written agreements between the State and any bus operator for student transportation entered into prior to May 1, 1970, and valid but for noncompliance with Section 103-22, Hawaii Revised Statutes, and allied statutory provisions, are validated and shall be effective according to their tenor.

SECTION 2. This Act shall take effect upon its approval.

(Approved June 13, 1970.)

ACT 79

H. B. NO. 1424-70

A Bill for an Act Relating to the Sale of Merchandise by Schools.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 298-21, Hawaii Revised Statutes, is amended to read:

“Sec. 298-21. Schools not to sell merchandise, etc. It shall be unlawful for any public school, without the written permission of the department of education to operate stores or to sell merchandise, with the following exceptions: school lunches, milk, ice cream, candy, things made or grown at the school as part of the educational program, and in cases where classroom efficiency, uniformity, or standardization of particular supplies is essential, textbooks, equipment, and necessary school supplies and equipment, may be sold by any school. The department of education shall, with the advice of the comptroller, promulgate rules and regulations in conformance with chapter 91 necessary for the purposes of this section.”

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect on July 1, 1970.

(Approved June 13, 1970.)

ACT 80

H.B. NO. 1603-70

A Bill for an Act Relating to Credit Card Offenses.

Be It Enacted by the Legislature of the State of Hawaii:

* Edited accordingly

SECTION 1. Chapter 730, Hawaii Revised Statutes, is amended to read as follows:

“CHAPTER 730

CREDIT CARD OFFENSES

“Section 730-1 Definitions.

- (1) “Cardholder” means the person or organization named on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer.
- (2) “Credit card” means any instrument or device, whether known as a credit card, credit plate, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value, on credit.
- (3) “Expired credit card” means a credit card which is no longer valid because the term shown on it has elapsed.
- (4) “Issuer” means the business organization or financial institution which issues a credit card or its agent.
- (5) “Receives” or “receiving” means acquiring possession or control or accepting as security for a loan.
- (6) “Revoked credit card” means a credit card which is no longer valid because permission to use it has been suspended or terminated by the issuer.

“Section 730-2. False Statement for purpose of procuring issuance of credit cards; penalties. A person who makes or causes to be made, either directly or indirectly, any false statement in writing, knowing it to be false and with intent that it be relied on, respecting his identity or that of any other person, firm, or corporation, or a material fact as to his financial condition or that of any other person, firm, or corporation, for the purpose of procuring the issuance of a credit card, violates this section and is subject to the penalties set forth in subsection 730-10(a).

“Section 730-3. Theft, forgery, etc, of credit cards; penalties. (a) A person who takes a credit card from the person, possession, custody, or control of another without the cardholder’s consent or who, with knowledge that it has been so taken, receives the credit card with intent to use it or to sell it, or to transfer it to a person other than the issuer or the cardholder is guilty of credit card theft and is subject to the penalties set forth in subsection 730-10(a). Taking a credit card without consent includes obtaining it by conduct defined or known as statutory larceny, common law larceny by trespassory taking, common law larceny by trick, embezzlement, or obtaining property by false pretense, false promise, gross cheat, or extortion. If a person has in his possession or under his control credit cards issued in the names of two or more other persons, which

have been taken or obtained in violation of this subsection, it is prima facie evidence that he knew that the credit cards had been so taken or obtained.

(b) A person who receives a credit card that he knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and who retains possession with intent to use it or to sell it or to transfer it to a person other than the issuer or the cardholder is guilty of credit card theft and is subject to the penalties set forth in subsection 730-10(a).

(c) A person other than the issuer who sells a credit card or a person who buys a credit card from a person other than the issuer violates this subsection and is subject to the penalties set forth in subsection 730-10(a).

(d) A person who, with intent to defraud the issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, obtains control over a credit card as security for debt violates this subsection and is subject to the penalties set forth in subsection 730-10(a).

(e) A person, other than the issuer, who during any twelve-month period, receives credit cards issued in the names of two or more persons which he has reason to know were taken or retained under circumstances which constitute credit card theft or a violation of section 730-2 or subsection (c) or (d) of this section violates this subsection and is subject to the penalties set forth in subsection 730-10(b).

(f) A person who, with intent to defraud a purported issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, falsely makes or falsely embosses a purported credit card or utters such a credit card, or possesses such a credit card with knowledge that the same has been falsely made or falsely embossed is guilty of credit card forgery and is subject to the penalties set forth in subsection 730-10(b). If a person other than the purported issuer possesses two or more credit cards which have been made or embossed in violation of this subsection, it is prima facie evidence that he intended to defraud or that he knew the credit cards had been so made or embossed. A person falsely makes a credit card when he makes or draws, in whole or in part, a device or instrument which purports to be the credit card of a named issuer but which is not such a credit card because the issuer did not authorize the making or drawing, or alters a credit card which was validly issued. A person falsely embosses a credit card when, without authorization of the named issuer, he completes a credit card by adding any of the matter, other than the signature of the cardholder, which an issuer requires to appear on the credit card before it can be used by a cardholder.

(g) A person other than the cardholder or a person authorized by him who, with intent to defraud the issuer, or a person or organization providing money, goods, services, or anything else of value, or any other person, signs a credit card, is guilty of credit card forgery and is subject to the penalties set forth in subsection 730-10(a).

“Section 730-4. Fraudulent use of credit cards, etc. penalties. A person, who, with intent to defraud the issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, (1) uses for the purpose of obtaining money, goods, services, or anything else of value a

credit card obtained or retained in violation of section 730-3 or a credit card which he knows is forged, expired, or revoked; or (2) obtains money, goods, services, or anything else of value by representing without the consent of the cardholder that he is the holder of a specified card or by representing that he is the holder of a card and such card has not in fact been issued, violates this section and is subject to the penalties set forth in subsection 730-10(a), if the value of all money, goods, services, and other things of value obtained in violation of this section does not exceed \$500 in any six-month period; and is subject to the penalties set forth in subsection 730-10(b), if such value exceeds \$500 in any six-month period.

Knowledge of revocation of a credit card shall be presumed to have been received by a cardholder four days after it has been mailed to him at the address set forth on the credit card or at his last known address by registered or certified mail, return receipt requested, and, if the address is more than five hundred miles from the place of mailing, by air mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone, and Canada, notice shall be presumed to have been received ten days after mailing by registered or certified mail.

“Section 730-5. Fraud by person authorized to provide goods or services; penalties. (a) A person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a credit card by the cardholder, or any agent or employees of such person, who, with intent to defraud the issuer or the cardholder, furnishes money, goods, services, or anything else of value upon presentation of a credit card obtained or retained in violation of section 730-3 or a credit card which he knows is forged, expired, or revoked violates this subsection and is subject to the penalties set forth in subsection 730-10(a), if the value of all money, goods, services, and other things of value furnished in violation of this subsection does not exceed \$500 in any six-month period; and is subject to the penalties set forth in subsection 730-10(b), if such value exceeds \$500 in any six-month period.

(b) A person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a credit card by the cardholder, or any agent or employee of such person, who, with intent to defraud the issuer or the cardholder, fails to furnish money, goods, services, or anything else of value which he represents in writing to the issuer that he has furnished violates this subsection and is subject to the penalties set forth in subsection 730-10(a), if the difference between the value of all money, goods, services, and anything else of value actually furnished and the value represented to the issuer to have been furnished does not exceed \$500 in any six-month period; and is subject to the penalties set forth in subsection 730-10(b), if such difference exceeds \$500 in any six-month period.

“Section 730-6. Possession of certain machinery, plates, or other contrivance or incomplete credit cards; penalties. A person other than the cardholder possessing an incomplete credit card, with intent to complete it without the consent of the issuer or a person possessing, with knowledge of its character, machinery, plates, or any other contrivance designed to reproduce instruments

purporting to be the credit cards of issuer who has not consented to the preparation of such credit cards, violates this section and is subject to the penalties set forth in subsection 730-10(b).

A credit card is incomplete if part of the matter other than the signature of the cardholder, which an issuer requires to appear on the credit card, before it can be used by a cardholder, has not yet been stamped, embossed, imprinted, or written on it.

If a person other than the cardholder or issuer possesses two or more incomplete credit cards, it is prima facie evidence that he intended to complete them without the consent of the owner."

"Section 730-7. Receipt of money, goods, services, or anything else of value obtained in violation of section 730-4; penalties. A person who receives money, goods, services, or anything else of value obtained in violation of section 730-4, knowing or believing that it was so obtained violates this section and is subject to the penalties set forth in subsection 730-10(a), if the value of all money, goods, services, and other things of value obtained in violation of this section does not exceed \$500 in any six-month period; and is subject to the penalties set forth in subsection 730-10(b), if the value exceeds \$500 in any six-month period. If a person possesses three or more tickets for airline, railroad, steamship or other transportation services, which tickets were obtained from the issuer or agent thereof by the use of a stolen or forged credit card, or otherwise obtained in violation of section 730-4, it is prima facie evidence that he knew such tickets had been so obtained."

"Section 730-8. Defenses not available. In any prosecution for violation of this chapter, the prosecution is not required to establish and it is no defense:

- (1) That a person other than the defendant who violated this chapter has not been convicted, apprehended, or identified; or
- (2) That some of the acts constituting the offense did not occur in this State or were not a crime or elements of a crime where they did occur."

"Section 730-9. Prima facie evidence. When this chapter establishes prima facie evidence of a fact, it is evidence which, if accepted in its entirety by the trier of fact, is sufficient to prove the fact, provided that no evidence negating the fact, which raises a reasonable doubt in the mind of the trier of fact, is introduced."

"Section 730-10. Penalties. (a) A person who is subject to the penalties of this subsection shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(b) A person who is subject to the penalties of this subsection shall be fined not more than \$3,000 or imprisoned not more than three years, or both."

"Section 730-11. Chapter not exclusive. This chapter shall not be construed to preclude the applicability of any other provision of the criminal law of this State which presently applies or may in the future apply to any transac-

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tion which violates this chapter, unless such provision is inconsistent with the terms of this chapter.”

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 13, 1970.)

ACT 81

H. B. NO. 1798-70

A Bill for an Act Relating to Jurisdiction of the Family Court.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 571-11, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 571-11 Jurisdiction; children, minors.** Except as otherwise provided herein, the court shall have exclusive original jurisdiction in proceedings:

- (1) Concerning any child who is alleged to have violated or attempted to violate any federal, state, or local law or municipal ordinance, regardless of where the violation occurred; or any minor alleged to have violated or attempted to violate any federal, state, or local law or municipal ordinance prior to having become eighteen years of age. The minor shall be dealt with under the provisions of this chapter relating to children. Jurisdiction may be taken by the court of the circuit where the minor is living or found, or in which the offense is alleged to have occurred.
- (2) Concerning any child living or found within the circuit
 - (A) who is neglected as to proper or necessary support, or education as required by law, or as to medical or other care necessary for his well-being, or who is abandoned by his parent or other custodian; or
 - (B) whose environment is injurious to his welfare, or whose behavior is injurious to his own or others' welfare; or
 - (C) who is beyond the control of his parent or other custodian.
- (3) To determine the custody of any minor or appoint a guardian of the person of any minor.
- (4) For the adoption of a person under chapter 578.
- (5) For the termination of parental rights under sections 571-61 to 571-63.
- (6) For judicial consent to the marriage, employment, or enlistment of a minor, when such consent is required by law.

* Edited accordingly

- (7) For the treatment or commitment of a mentally defective, mentally retarded, or mentally ill minor.
- (8) Under the Interstate Compact on Juveniles under chapter 582.”

SECTION 2. Section 571-22(a) is hereby amended to read as follows:

“**Sec. 571-22 Waiver of jurisdiction; transfer to other courts.** (a) The court may waive jurisdiction and order a minor held for criminal proceedings after full investigation and hearing when:

- (1) A child sixteen years of age or over is alleged to have committed an act which would constitute a felony if committed by an adult, or,
- (2) A minor eighteen years of age or over is alleged to have committed an act prior to reaching the age of eighteen which act would be a crime if committed by an adult and the court finds there is no evidence the child or minor is committable to an institution for the mentally defective or retarded or the mentally ill, is not treatable in any available institution or facility within the State designed for the care and treatment of children, or that the safety of the community requires that the child or minor continue under restraint for a period extending beyond his minority.”

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.
(Approved June 13, 1970.)

ACT 82

H. B. NO. 2146-70

A Bill for an Act Relating to Motor Vehicle Industry, Dealer and Salesman Licensing Laws.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 437, Hawaii Revised Statutes, as amended, is further amended as follows:

(1) By amending Section 437-6 to read:

“**Sec. 437-6. Jurisdiction and powers of the board.** Neither the motor vehicle industry licensing board nor its members shall in any way interfere with the administrative affairs of the department to which it is assigned. However, the board shall have the sole jurisdiction, power, and authority, and discretion, subject only to this chapter, to:

“(1) Rules and regulations. Make, amend, and repeal from time to time such rules and regulations not inconsistent with this chapter, as the board deems appropriate for the carrying out of the provisions and purposes of this chapter and for the efficient administration thereof, and the proper conduct of the business which are subject to this chapter, including every matter or thing required to be done or which may

* Edited accordingly

be done with the approval or consent or by order or under the direction or supervision of, or as prescribed by the board, which rules and regulations, when promulgated and filed as provided in chapter 91, shall have the effect of law.

- “(2) Licenses. Grant, deny, suspend, or revoke licenses which are authorized by this chapter and impose such conditions as may be set forth in the rules and regulations of the board in connection with the granting of licenses.
- “(3) Duplicate licenses. Prescribe the nature of the proof to be furnished, the notices to be given and the conditions to be met or observed for the issuance of a duplicate license in place of one alleged to have been lost or destroyed, including a requirement for any indemnity deemed appropriate to the case.
- “(4) Forms. Prescribe all forms to be used for the purposes of this chapter not otherwise provided for herein.
- “(5) Investigations, witnesses, and subpoenas.
 - “(A) Investigate violations through its investigators or inspectors or otherwise, and to report such violations to the prosecuting officer for prosecution; to hear and determine verified complaints against any licensee; to subpoena and examine witnesses under oath and require the production of, and examine any of the books, papers, and records of any licensee which may pertain to his business under his license or which shall or may pertain to any matter being considered, or any hearing or investigation being conducted, by or before the board. The board may investigate any matter of which the board may take cognizance, and take testimony in the same manner as any court and neither the board nor any member shall be bound by the strict legal rules of evidence.
 - “(B) The fees and mileage of witnesses shall be the same as that allowed in the circuit courts and shall be paid in the same manner as other expenses of the board.
 - “(C) Depositions of witnesses residing within or without the State may be taken by the board in the manner prescribed by law for like depositions in civil actions. In any case of disobedience to, or neglect of any such subpoena served on any person, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated by the board, any circuit judge of any judicial circuit wherein such disobedience, neglect, or refusal occurs, on application of the executive secretary or any person so authorized by the board may compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify therein.

“(D) In addition to, but not in derogation of, this section, section 92-12 shall be applicable to the board and to proceedings by or before or under the jurisdiction of the board.

“(6) Minimum qualifications. Establish by rules and regulations, minimum qualifications for salesmen or dealers which must be met by applicants prior to the issuance of any license.

“(7) Oaths. The board shall have the same powers respecting the administering of oaths, compelling the attendance of witnesses, the production of documentary evidence, and examination of witnesses as are possessed by a circuit judge at chambers.

“(8) Decisions of board. The exercise by the board of power, authority, and discretion in it so vested shall be final in each case and shall not be reviewable by or appealable to any court or tribunal, except as otherwise provided in chapter 91 or in this chapter.”

(2) By amending Section 437-8(a) to read:

“(a) Funds. All fees and other moneys collected or received under this chapter shall be deposited in the general fund of the state and no expenditure for the operation of the motor vehicle dealers licensing board shall be made unless there is an appropriation therefor as provided by law.”

(3) By amending Section 437-11(b) to read:

“(b) Building requirement as to used motor vehicle dealers waived, when.

“(1) If the board finds upon investigation that the foregoing requirement of a permanent building will impose undue hardship upon used motor vehicle dealers due to scarcity of available sites, or the unwillingness of the landowner to grant leases for reasonably long terms, or permit the erection of permanent buildings suitable for display purposes as required herein, or the like, which render it impossible, economically unfeasible, or impracticable to enforce the requirement of a permanent building against used motor vehicle dealers, the board may waive the requirement as to all used motor vehicle dealers; provided that the waiver shall be made only after a public hearing is held thereon, for which notice has been published at least one week prior to the public hearing in a newspaper of general circulation in the county concerned; provided further that the waiver may continue until such time as the board finds after investigation and public hearing thereon as provided herein that such conditions have ceased to exist or diminished to the extent that the building requirement may be enforced without imposing undue hardship upon used motor vehicle dealers; and provided further that if there is such waiver in effect, the site has suitable sanitation facilities thereon or suitable sanitation facilities within a reasonable distance as determined by the board from the site.

“(2) The foregoing waiver and conditions shall be applicable to branch locations.”

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(4) By amending Section 437-17(d) to read:

“(d) Suit on bond. The board, director of regulatory agencies, or the treasurer, or any person, who has been or claims to have been injured by the breach of the conditions shall have the right of action to recover on any such bond, plus a reasonable attorney’s fee (to be allowed by the court, no other attorney’s fees shall be permitted from the bond proceeds) incurred to procure the recovery under the bond, but the aggregate liability of the surety or sureties to all such persons shall in no event exceed the amount of the bond. Nothing in this section or chapter shall be deemed to prohibit or prevent an independent action against the dealer and any other person from being joined or consolidated with an action on the bond, and the recovery of a larger amount than the amount of the bond founded upon any other cause or causes of action so joined or consolidated.”

(5) By amending Section 437-31 to read:

“**Sec. 437-31. Legal counsel.** The department of the attorney general shall serve as counsel for the board.”

SECTION 2. All fees and moneys collected by the board as of November 1, 1969, which is held in the department of regulatory agencies trust account No. 902, shall become the realization of the State.

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 13, 1970.)

ACT 83

S. B. NO. 1196-70

A Bill for an Act Relating to Public Lands.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Item (2) of the first paragraph of section 171-19, Hawaii Revised Statutes, is amended to read as follows:

“(2) For the incidental maintenance of public lands, including the repair of improvements thereon, not to exceed \$25,000 in any fiscal year;”

SECTION 2. Section 171-26, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 171-26. Rights-of-way to the sea and game preserves.** Prior to the disposition of any public lands, the board of land and natural resources shall lay out and establish over and across such lands a reasonable number of rights-of-way from established highways to the public beaches, game preserves and public forests and forest reserves in order that the right of the people to utilize the public beach or beaches, public game preserve and public forests and forest reserves shall be protected.

Prior to the leasing of any lands, the board shall determine the feasibility

* Edited accordingly

of hunting on such lands, and if any of them is suitable for hunting or may during the term of the lease become suitable for hunting, the board may reserve such lands as game preserves. Where the board finds that hunting on such lands would not be consistent with the rights of the lessee or for other good cause, the board need not reserve such lands as game preserves.

The cost of such rights-of-way and any fencing which may be required shall be borne by the State, lessee or jointly as the board may deem appropriate prior to the leasing of such lands."

SECTION 3. The first paragraph of subsection 171-60(a) is amended to read as follows:

"Sec. 171-60(a). Leasehold projects. Notwithstanding anything in this chapter to the contrary, the board may, by negotiation and without recourse to public auction, with the prior approval of the governor and authorization of the legislature by concurrent resolution approving a development project, such concurrent resolution to be adopted by each house no earlier than twenty-four hours after printed copies thereof have been made available to the members of that house, (1) lease public lands, including submerged lands to be reclaimed at the developer's or developers' expense, to a private developer or developers, or (2) enter into a development agreement with a private developer or developers, for development and subdivision of such public lands as a leasehold project for agricultural, industrial, single-family or multiple-family residential, commercial, business or hotel and resort uses, as provided in this subsection."

SECTION 4. The first paragraph of subsection 171-60(b) is amended to read as follows:

"(b) Fee simple residential development. Notwithstanding anything in this chapter to the contrary, the board may, by negotiation and without recourse to public auction, with the prior approval of the governor and authorization of the legislature by concurrent resolution approving the development project, such concurrent resolution to be adopted by each house no earlier than twenty-four hours after printed copies thereof have been made available to the members of that house, dispose of public lands, including submerged lands to be reclaimed at developer's or developers' expense, by sale of the fee, for single-family or multiple-family residential uses, as provided in this subsection."

SECTION 5. Chapter 171, Hawaii Revised Statutes is amended by adding thereto a new section to be appropriately numbered and to read as follows:

"Sec. 171- . Lease to eleemosynary organizations. The board may lease, by direct negotiation and without recourse to public auction, public lands to be used for charitable purposes to an eleemosynary organization which has been certified to be such by the director of taxation."

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

* Edited accordingly

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SECTION 7. This Act shall take effect upon its approval.
(Approved June 13, 1970.)

ACT 84

S. B. NO. 1670-70

A Bill for an Act Relating to Credit Life Insurance and Credit Disability Insurance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 435-4(a), Hawaii Revised Statutes, is amended to read as follows:

"Section 435-4. Maximum amount of credit life insurance and credit disability insurance. (a) Credit life insurance. The initial amount of credit life insurance shall not exceed the total amount repayable under the contract of indebtedness and, where an indebtedness is repayable in substantially equal installments, the amount of insurance shall at no time exceed the scheduled or actual amount of unpaid indebtedness, whichever is greater, except that if the sole purpose of the loan is to provide future advances to the debtor to meet education or education-related expenses of the debtor, the debtor's spouse, children or other dependents, the amount of insurance may equal, but may not exceed, the total amount of the described expenses forecast at the time of entry into the loan agreement with the creditor, less the amount of all repayments by the debtor. In the case of revolving loan or revolving charge accounts, the insurance shall at no time exceed the unpaid indebtedness."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.
(Approved June 13, 1970.)

ACT 85

H. B. NO. 1924-70

A Bill for an Act Relating to Landscape Architects.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 464, Hawaii Revised Statutes, is amended in the following respects:

(a) By changing the title of the chapter to read "Professional Engineers, Architects, Surveyors and Landscape Architects".

(b) By changing, wherever appearing, the words "engineer, architect and land surveyor", or "engineer, architect or land surveyor", or "engineer, architect or surveyor", or "'engineer', 'architect', or 'land surveyor'", or "engineering, architecture or land surveying", or "engineering, architecture or surveying", to read "engineer, architect, land surveyor and landscape architect", or "engineer, architect, land surveyor or landscape architect", or "engineer, architect, surveyor or landscape architect", or "'engineer', 'architect', 'land surveyor' or 'landscape architect'", or "engineering, architecture, land surveying or

* Edited accordingly

landscape architecture”, or “engineering, architecture, surveying or landscape architecture”, respectively.

(c) By changing, wherever appearing, the words “engineering or architecture”, or “engineering and architecture”, or “engineer or architect”, or “engineering or architectural”, or “engineering work and architectural work”, or “architectural or engineering”, to read “engineering, architecture or landscape architecture”, or “engineering, architecture and landscape architecture”, or “engineer, architect or landscape architect”, or “engineering, architectural or landscape architectural”, or “engineering work, architectural work and landscape architectural work”, or “architectural, engineering or landscape architectural”, respectively.

SECTION 2. Section 464-1, Hawaii Revised Statutes, is amended to read as follows:

“Section 464-1. Definitions. As used in this chapter:

- (1) “Professional engineer” means a person who engages in the practice of professional engineering as hereinafter defined;
- (2) “Architect” means a person who engages in the practice of architecture as hereinafter defined;
- (3) “Surveyor” or “land surveyor” means a person who engages in the practice of land surveying as hereinafter defined;
- (4) “Landscape architect” means a person who engages in the practice of landscape architecture as hereinafter defined;
- (5) A person practices “professional engineering” who holds himself out as able to perform, or who does perform, any professional service such as consultation, investigation, evaluation, planning, design, or responsible supervision of construction or operation, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects, wherein the safeguarding of life, health, or property is concerned or involved when such professional service requires the application of engineering principles and data;
- (6) A person practices “architecture” who holds himself out as able to perform, or who does perform, any professional service such as consultation, investigation, evaluation, planning, design, including aesthetic and structural design, or responsible supervision of construction, in connection with any private or public buildings, structures, or projects or the equipment or utilities thereof, or the accessories thereto, wherein the safeguarding of life, health, or property is concerned or involved, when such professional service requires the application of the art and science of construction based upon the principles of mathematics, aesthetics, and the physical sciences;
- (7) A person practices “land surveying” who holds himself out as able to make, or who does make cadastral surveys of areas for their correct

determination and description, either for conveyancing or for the establishment or reestablishment of land boundaries or the plotting of lands and subdivisions thereof;

- (8) A person practices "landscape architecture" who holds himself out as able to perform professional services such as consultation, investigation, reconnaissance, research, design, preparation of drawings and specifications, and responsible supervision where the dominant purpose of such services is: (1) the preservation and enhancement of land uses and natural land features; (2) the location and construction of aesthetically pleasing and functional approaches for structures, roadways, and walkways; and, (3) design for equestrian trails, plantings, landscape irrigation, landscape lighting, and landscape grading. This practice shall include the location, arrangements, and design of such tangible objects and features as are incidental and necessary to the purposes outlined herein. Nothing herein shall preclude a duly licensed landscape architect from planning the development of land areas and elements used thereon or from performing any of the services described in this section in connection with the settings, approaches, or environment for buildings, structures, or facilities.

This chapter shall not empower a landscape architect, registered under this chapter, to practice, or offer to practice, architecture or engineering in any of its various recognized branches."

SECTION 3. Section 464-5, Hawaii Revised Statutes, is amended to read as follows:

"Section 464-5. Limitation upon application of chapter. Nothing in this chapter shall prevent any person from engaging in engineering or architectural work and undertakings upon property owned or exclusively controlled or possessed by that person, or from hiring any person to do such work and undertakings, unless the same involve the safety or health of the public, nor shall anything in this chapter prevent any person from engaging in land surveying upon property owned or exclusively controlled or possessed by that person or from hiring any person to do such work, unless the same involves a common boundary.

Nothing in this chapter shall be construed as applying to the business conducted in this state by any agriculturist, horticulturist, tree expert, arborist, forester, gardenshop operator, nurseryman or landscape nurseryman, gardener, landscape gardener, landscape contractor, landscape designer, landscape consultant, garden or lawn caretaker or cultivator of land, as these terms are generally used, except that no such person shall use the designation 'landscape architect' 'landscape architectural' or 'landscape architecture' unless registered under the provisions of this chapter.

All engineering work and architectural work in which the public safety or health is involved shall be designated by and the construction supervised by a duly registered professional engineer or architect, respectively."

SECTION 4. Section 464-6, Hawaii Revised Statutes, is amended to read as follows:

“Section 464-6. Board of registration of professional engineers, etc., members; appointment, tenure; qualifications. There shall be a state board of registration of professional engineers, architects, and surveyors hereinafter called “the board”, to be appointed by the governor in the manner prescribed in section 26-34. The board shall consist of fourteen members, comprising at least three professional engineers, three professional architects, three professional surveyors and two professional landscape architects. Each county shall be represented by at least one member who is a resident of the county. Each member shall hold over after the expiration of his term until his successor is duly appointed and qualified.

Each member shall have been a resident of the State for at least three years, and shall have been engaged in the practice of his profession for at least nine years immediately preceding the date of his appointment. Members of the board shall serve without pay, except the secretary, who shall be allowed such compensation as the board may fix with the approval of the governor. Any member of the board, however, who incurs expenses in connection with the preparation and grading of examination papers shall be reimbursed for such expenses with the approval of the board.

The department of regulatory agencies shall employ, subject to chapters 76 and 77, a secretary and such other clerical help as are necessary for the proper performance of the board’s work and may make any reasonable expenditures which are necessary to carry out the functions of the board.”

SECTION 5. Chapter 464, Hawaii Revised Statutes, is amended by adding a new section to be appropriately numbered and to read as follows:

“Section 464- . Prior practitioners of landscape architecture. Notwithstanding the provisions of section 464-8, where an application for license to practice landscape architecture is made prior to January 1, 1971, the board shall accept as satisfactory evidence of the applicant’s competency and qualification for registration as a landscape architect, the following:

- (1) That the applicant has a diploma of graduation from a college or school offering an approved curriculum in landscape architecture, or the equivalent thereof as determined by the board, showing that the applicant has satisfactorily completed such curriculum, together with at least one year of actual, practical experience in landscape architectural work; or
- (2) That the applicant has been actually engaged continuously in the active practice of landscape architecture, either in a governmental agency or in the office of one or more landscape architects, or both, for not less than four years, or in his own business for not less than two years prior to the date when this chapter shall take effect.”

SECTION 6. Section 464-11, Hawaii Revised Statutes, is amended to read as follows:

“Section 464-11. Contents of certificates; use of seal mandatory when.

Each certificate of registration issued hereunder shall bear the date of the original registration and shall specify whether the person to whom it is issued is authorized by the board of registration of professional engineers, architects, and surveyors to practice professional engineering, architecture, or land surveying.

In the case of a certificate issued to a person authorizing him to practice professional engineering, the certificate shall furthermore indicate the major branch or branches of engineering in which the person has especially qualified.

Every registered person may use a seal or rubber stamp of the design authorized by the board bearing his name and the words “registered professional engineer”, “registered architect”, “registered land surveyor”, or “registered landscape architect”, or otherwise as may be authorized by the board.

All plans, specifications, maps, and reports prepared by or under the supervision of a registered engineer, architect, or surveyor, shall be stamped with such seal or stamp when filed with public officials. It shall be unlawful for anyone to seal or stamp any document with such seal or stamp after the certificate of the registrant named thereon has expired or has been revoked or suspended unless such certificate has been renewed or reissued.

No official of the State nor of any political subdivision thereof, charged with the enforcement of laws or ordinances relating to the construction or alteration of buildings or structures, shall accept or approve any plans or specifications that are not stamped with the seal of a registered architect holding an unexpired certificate or with the seal of a registered engineer holding a certificate on which has been indicated that he has qualified in the structural engineering branch, unless the building or structure, for which the plans or specifications are submitted is exempted from this chapter, and no map or survey shall be filed in the land court unless stamped with the seal of a registered land surveyor.”

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 8. This Act shall take effect upon its approval.

(Approved June 15, 1970.)

ACT 86

H. B. NO. 2067-70

A Bill for an Act Relating to Garnishment.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to amend the law relating to garnishment to provide for the substitution of a bond for the garnishee fund.

SECTION 2. Section 652-1, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 652-1 Garnishee process; “garnishee fund.” (a) Before judgment. When any goods or effects of a debtor are concealed in the hands of an attorney, agent, factor, or trustee (in this chapter jointly and severally included in

* Edited accordingly

the term "garnishee"), so that they cannot be found to be attached or levied upon, or when any debt is due from any person (also included under the term "garnishee") to a debtor, or when any person has in his possession for safekeeping any moneys of the debtor, any creditor may bring his action against a debtor and in his petition for process, or by subsequent ex parte motion and amendments of the complaint at any time before judgment, may request the court to insert in the process a direction to the officer serving the same to leave a true and attested copy thereof with the garnishee or at his usual place of abode and to summon the garnishee to appear personally upon the day or term appointed in the process for hearing the action or at any other time appointed by the court and then and there on oath to answer all of the following inquiries, herein inclusively referred to as the "disclosure": (1) whether he has, or at the time the copy was served on him had, any of the goods or effects of the defendant in his hands and, if so, the nature, amount and value thereof; or (2) whether he is, or at the time of service was indebted to the defendant and, if so, the nature and amount of the debt; or (3) whether he has or at the time of service on him had, any moneys of the defendant in his possession for safekeeping and, if so, the amount thereof.

Any other provision to the contrary notwithstanding, no garnishee summons shall be issued before judgment when any debtor is in receipt of any salary, stipend, commissions, wages, annuity, or net income or portion of net income under a trust (in this chapter included under the term "wages"), from any person (also included under the term "garnishee") until the creditor upon motion and after hearing has proved to the satisfaction of the court any of the following allegations: (1) that the defendant debtor is not a resident of the State and may depart from the State within six months from the date of the filing of the action; (2) that the defendant debtor has departed from the State; (3) that the defendant debtor has left the county of his residence with intent to avoid service of summons; or (4) that the defendant debtor, although a resident of the State, intends to depart from the State and remain absent therefrom for a period in excess of nine months. If the ruling of the court is in favor of the creditor on any of the allegations above enumerated, the creditor may then request the court to issue the garnishee summons in the manner provided for in the preceding paragraph and the garnishee in his disclosure shall on oath answer the following inquiry (also included under the term "disclosure"): whether the defendant is, or at the time of service was, in receipt from him of any wages, and, if so, the amount or rate thereof.

The summons and direction, except as to wages as provided for above, shall be signed and issued as is usual in other civil process. It shall be served according to such direction. From the time of leaving such copy, the garnishee shall secure in his hands to pay such judgment as the plaintiff shall recover in the action, the following property or choses: (1) all the goods and effects of the defendant then in the hands of the garnishee; (2) every debt then owing from the garnishee to the defendant; (3) all moneys of the defendant then in the possession of the garnishee for safekeeping; and (4) a portion of the wages of the defendant by withholding the amount to be determined as follows: five per cent of the first \$100 per month, ten per cent of the next \$100 per month, and

twenty per cent of all sums in excess of \$200 per month, or an equivalent portion of the above amount per week, whether then or thereafter to become owing. The property or choses described in (1), (2), (3), and (4) of this paragraph are included under the term "garnishee fund" (in this chapter). The cumulative total value of the fund, in advance of final judgment, shall be no more than shall be sufficient to meet the claim of the plaintiff together with cost and legal interest. Any excess in the fund shall be released by the court pursuant to subsection (d) of this section. No part of the garnishee fund may be otherwise disposed of by the garnishee except as provided in this chapter.

The summons and direction shall be sufficient notice to the defendant to enable the plaintiff to bring his action to trial, unless the defendant is an inhabitant of the State or has some time resided therein, in which case a like copy shall be served personally upon him or left at his last and usual place of abode.

The court shall order the fund garnished before judgment released upon the filing by the debtor with the court of a bond or bonds issued by a surety or sureties licensed to do business as such in the State, in an amount sufficient to pay the claim of the creditor together with costs and interest, and conditioned upon judgment rendered in favor of the creditor and to the extent the claim or any portion thereof, together with costs and interest, if any, is awarded.

(b) After judgment. Wages may be garnished after judgment at the rates specified in the third paragraph of subsection (a) of this section but without regard to the conditions set forth in the second paragraph of subsection (a) of this section. In any action brought by a creditor against a debtor, the creditor may, after judgment rendered in his favor, request the court to summon any garnishee to appear personally, upon a day appointed in the summons for hearing the cause as against the garnishee, and make full disclosure; or in any action brought in the district court by a creditor against a debtor, the creditor may, ten days after judgment rendered in his favor, file a certified copy of the judgment and his affidavit as to the amount due and unpaid on account of the judgment with the employer of the judgment debtor and the employer shall thereupon either file a disclosure within one week or shall withhold from the wages of the judgment debtor the amounts as provided herein and pay the same to the judgment creditor.

Alias summons shall also be issued and served similarly as other civil process. From the time of leaving the copy of the alias summons, any and every element of any garnishee fund in the hands of the garnishee shall be there secured to pay the judgment already recovered and may not otherwise be disposed of by the garnishee.

(c) Return by garnishee. Any garnishee summoned, whether before or after judgment, may file in the court issuing the summons, on or before the return day thereof, a return under oath containing a full disclosure. A copy of the return shall be served on the plaintiff or his attorney on or before the return day. The filing of the return shall be deemed prima facie a compliance with the summons; provided that either party to the action may, upon written notice served upon the garnishee, require the garnishee to appear and be examined under oath as to such disclosure or as to his liability as garnishee.

(d) Garnishee fund excessive. At any time after service of summons, the

court, upon the consent of the plaintiff or upon motion of the defendant or of the garnishee and notice to the plaintiff, shall determine whether the garnishee fund is excessive in amount in comparison with subsection (a) of this section or with the judgment rendered and may thereupon release the remainder thereof from being so secured.

(e) Limits on process, when. If any party named in the process as garnishee is a corporation, firm, or person having places of business in more than one judicial circuit or district in the State, the service of process upon the garnishee shall operate only to secure the garnishee fund within the circuit or circuits in which the process is served in cases where the process is issued out of a circuit court, or within the district in which process is served in cases where the process is issued out of a district court.

(f) No employer shall be liable to anyone for deductions and payments to judgment creditors from wages of judgment debtor employees, as herein provided, when he in good faith believes, or has reason to believe, that service of the certified copy of the judgment and affidavit of the judgment creditor as provided in (b) herein affects the same.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 15, 1970.)

ACT 87

H. B. NO. 2112-70

A Bill for an Act Relating to the Motor Vehicle Industry Licensing Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 437-28, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Grounds for suspension, revocation, or denial of issuance or renewal of a license. The board may, after notice and hearing as provided in chapter 91, and subject to appeal to the circuit court of the circuit in which the board has jurisdiction under the procedure and rules prescribed from time to time by the laws of the State or the applicable rules of the courts pertaining to appeals to circuit courts, suspend, revoke, or deny the renewal of any license, or prior to such notice and hearing deny the issuance of any license if it finds that the applicant or holder, or any officer, director, general manager, trustee, partner, or stockholder owning more than a ten per cent interest of such applicant or holder:

- (1) Has intentionally made a false statement of a material fact in his application for a license or in any other statement required by this chapter or has obtained or attempted to obtain a license by fraud or misrepresentation; or
- (2) Has failed to comply, observe, or adhere to any provision of this chapter or any other law relating to the sale, taxing, or licensing of

* Edited accordingly

motor vehicles or any rule, regulation, or order made pursuant to this chapter; or

- (3) Has committed a fraudulent act in selling, purchasing, or otherwise dealing in motor vehicles or has misrepresented the terms and conditions of a sale, purchase, or contract for sale or purchase of a motor vehicle or any interest therein including an option to purchase such motor vehicles; or
- (4) Has engaged in his business under a past or present license issued pursuant to this chapter, in such a manner as to cause injury to the public or to those with whom he is dealing; or
- (5) Has failed to comply, observe, or adhere to any law in any other respect on account whereof the board may deem him to be an unfit or improper person to hold a license; or
- (6) Has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license; or
- (7) Has been convicted of a felony or misdemeanor involving moral turpitude, and has not been pardoned therefor. This restriction shall also apply to any corporate or partnership applicant or holder of a license, where a stockholder or general or limited partner owning directly or indirectly more than a ten per cent interest in such applicant or holder has been so convicted; or
- (8) Is insolvent or has filed or is the subject of petition for bankruptcy, wage earner's plan, or financial reorganization plan; or has made or proposes to make an assignment for benefit of creditors;
- (9) In the case of an individual applicant or holder of a license, is not at least twenty years of age; in the case of a partnership applicant or holder of a license, if any general or limited partner thereof is not at least twenty years of age; or
- (10) Has charged more than the legal rate of interest on the sale or purchase or attempted sale or purchase or in arranging the sale or purchase of motor vehicle or any interest therein including an option to purchase; or
- (11) Has violated any of the laws pertaining to false advertising or to retail installment sales in the offering, solicitation, selling or purchasing, or arranging to sell or purchase a motor vehicle or any interest therein; or
- (12) Has wilfully failed or refused to perform any unequivocal and indisputable obligation under any written agreement involving the sale or purchase of a motor vehicle or any interest therein including an option to purchase; or
- (13) Has been denied the issuance of a license under this chapter for substantial culpable cause or for having had a license issued under this

- chapter suspended, revoked, or the renewal thereof denied for substantial culpable cause; or
- (14) Has entered or has attempted to enter or proposes to enter into any contract or agreement contrary to this chapter or any rule or regulation adopted thereunder; or
 - (15) Has been or is engaged or proposes to engage in the business of selling new motor vehicles as a dealer or auction without a proper franchise therefor; or
 - (16) Has at any time employed or utilized or attempted or proposed to employ or utilize any person not licensed under this chapter who is required to be so licensed; or
 - (17) Being a salesman or dealer:
 - (A) Has required a purchaser of motor vehicles as a condition of sale and delivery thereof to purchase special features, appliances, accessories, or equipment not desired or requested by the purchaser; provided that this prohibition shall not apply as to special features, appliances, accessories, or equipment which are ordinarily installed on the vehicle when received or acquired by the dealer; or
 - (B) Has represented and sold as an unused motor vehicle any motor vehicle which has been operated as a demonstrator, leased, or U-drive motor vehicle; or
 - (C) Has sold a new motor vehicle without providing or securing for the purchaser the standard factory new car warranty for the vehicle, unless the dealer or salesman clearly notes in writing on the sales contract that the new motor vehicle is sold without the standard factory warranty; or
 - (18) Being an applicant or holder of a dealer's license:
 - (A) Has sold or proposed to sell new motor vehicles without providing for the maintenance of a reasonable inventory of parts for such new vehicles or without providing and maintaining adequate repair facilities and personnel for such new vehicles at either the main licensed premises or at any branch location; or
 - (B) Has employed or proposed to employ any salesman who is not duly licensed under this chapter; or
 - (C) Has sold or proposed to sell new motor vehicles without being franchised therefor; or
 - (D) Has proposed to sell new motor vehicles under a franchise awarded by a manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative who is charged with cancelling or failing to renew a franchise

agreement with a dealer unfairly without due regard to the equities of such dealer or without good faith, in a complaint filed with the board with which such proposal is pending, which complaint has not been finally disposed of by the board and by the highest applicable appellate court if appeal has been taken of the decision of the board; or

(19) Being an applicant or holder of an auction's license:

- (A) Has employed or proposed to employ any auctioneer who is not licensed under this chapter; or
- (B) Has sold or proposed to sell new motor vehicles without being franchised therefor; or

(20) Being an applicant for a salesman's license:

- (A) Does not intend to be employed as a salesman for a licensed motor vehicle dealer; or
- (B) Does not intend to be employed as a salesman as his principal occupation; or
- (C) Intends to be employed as a salesman for more than one dealer; or

(21) Being a motor vehicle auctioneer, does not intend to be employed as such by a licensed auction under this chapter; or

(22) Being a manufacturer, factory branch, factory representative, distributor, distributor branch or distributor representative:

- (A) Has attempted to coerce or has coerced any dealer in this State to enter into any agreement with such manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative, or to do any act which the dealer is not legally required to perform or enter or to refrain from doing any act which the dealer can legally perform, by threatening to cancel or fail to renew any franchise agreement between such manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative, and the dealer; or
- (B) Has attempted to coerce or coerced any dealer in this State to enter into any agreement with such manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative, or to do any act or enter into any agreement which the dealer is not legally required to perform or enter, or to refrain from doing any act which the dealer can legally perform or to penalize or threaten to penalize any dealer for failing to enter such agreement as aforesaid or for failing to do such act as aforesaid or for failing to refrain from doing such act as aforesaid, by awarding or threatening to award a franchise to another person for the sale of the same make of new motor vehicles in the

same county for which such dealer holds an existing franchise and is duly licensed to sell such make of new motor vehicles therein; or

- (C) Has attempted to or has cancelled or failed to renew the franchise agreement of any dealer in this State unfairly without due regard to the equities of the dealer or without good faith, as defined herein. Upon such cancellation or failure to renew a franchise agreement, the party cancelling or failing to renew the franchise agreement shall, at the dealer's option, either compensate the dealer at the fair market going business value for the dealer's capital investment, which shall include but not be limited to the going business value of the franchise, good will, property and improvement owned or leased by the dealer for the purpose of the franchise, inventory of parts and motor vehicles possessed by the dealer in connection with the franchise, plus reasonable attorney's fees incurred in collecting such compensation; provided that such capital investment shall have been made with reasonable and prudent judgment for the purpose of the franchise agreement; or compensate the dealer for his damages including attorney's fees as aforesaid, resulting from the cancellation or failure to renew the franchise agreement. As used herein, "good faith" means the duty of each party to any franchise agreement to act in a fair and equitable manner towards each other, with freedom from coercion or intimidation or threats thereof from each other; or
- (D) Has delayed delivery of or refused to deliver without cause, any new motor vehicle to a dealer, franchised to sell the new motor vehicle, within a reasonable time after receipt of a written order for the vehicle from the dealer. The delivery to another dealer of a motor vehicle of the same model and similarly equipped as the vehicle ordered by a dealer who has not received delivery thereof, but who had placed his written order for the vehicle prior to the order of the dealer receiving the vehicle, shall be prima facie evidence of a delayed delivery of, or refusal to deliver, a new motor vehicle without cause. The nondelivery of a new motor vehicle to a dealer within sixty days after receipt of a written order for the vehicle from a dealer shall also be prima facie evidence of delayed delivery of, or refusal to deliver, a new motor vehicle without cause; provided that the delayed delivery of, or refusal to deliver, a motor vehicle shall be deemed with cause if the manufacturer establishes that the delay or refusal to deliver is due to a shortage or curtailment of material, labor, transportation, utility service, labor, or production difficulty, or other similar cause beyond the reasonable control of the manufacturer; or
- (E) Has sold or distributed or caused to be sold or distributed any

new motor vehicle to a person in this State at a lower actual price than the actual price charged to a dealer in this State for the same model vehicle similarly equipped; or

- (F) Has discriminated against any of their franchised dealers in this State by directly or indirectly charging such dealer more for a new motor vehicle or services, parts, or accessories therefor or a higher rate of transportation for transporting such vehicle from the manufacturing or assembly plant to such dealer or any portion of such distance, than is charged to any other of their franchised dealers in other states for the same make, model, and year of a new motor vehicle or for the same services, parts, or accessories therefor or for similar transportation for such vehicle during the same period. A manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative who provides or causes to be provided greater transportation benefits for a new motor vehicle as aforesaid to any of their franchised dealers in other states than is provided to any of their franchised dealers in this State for the same or lesser price or charge than that imposed upon such franchised dealer in this State during the same period is deemed to have so discriminated against such franchised dealer in this State. Evidence of similar discriminatory practice against franchised dealers in other states shall not constitute a defense to or justification of the commission of such discriminatory act against the franchised dealer in this State. The intent and purpose of this paragraph is to eliminate inequitable pricing policies set by manufacturers, factory branches, factory representatives, distributors, distributor branches, or distributor representatives which result in higher prices of new motor vehicles to the consumer in this State. This paragraph shall be liberally interpreted to effect such intent and purpose and in the application thereof, the substance and effect and not the form of the acts and transactions shall be primarily considered in determining whether a discriminatory act has been committed.
- (G) Has required a dealer of new motor vehicles in this State as a condition of sale and delivery of new motor vehicles to purchase special features, appliances, accessories, or equipment not desired or requested by such dealer; provided that this prohibition shall not apply to special features, appliances, accessories, or equipment, except heaters, which are regularly installed on that particular model of new motor vehicles as "standard" equipment or to special features, appliances, accessories, or equipment which are an integral part of such new motor vehicles and cannot be removed therefrom without substantial expense.

(23) Has been convicted of a violation of section 291-38."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.
(Approved June 15, 1970.)

ACT 88

H. B. NO. 1444-70

A Bill for an Act Relating to Burial of an Indigent.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 346-15 of the Hawaii Revised Statutes is amended to read as follows:

“Section 346-15. Burial of an indigent. The department of social services may bear the cost of the burial of indigent persons up to, but not exceeding the sum of \$400. Burial services include the customary mortuary, crematory, cemetery and other services essential in providing a dignified burial.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.
(Approved June 15, 1970.)

ACT 89

S. B. NO. 1410-70

A Bill for an Act Relating to Investments by the Employees' Retirement System of the State of Hawaii.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 88-119(1) (D), Hawaii Revised Statutes, as amended, is amended to read as follows:

“Other obligations secured by first mortgages on unencumbered improved real estate owned in fee simple, provided that the amount of the obligation shall not at the time investment is made therein exceed 75 per cent of the value of the real estate mortgaged to secure it, except that if the obligation is for an amount of \$50,000 or less, the amount of the obligation shall not exceed 80 per cent of the real estate mortgaged to secure it. Real estate shall not be deemed to be encumbered within the meaning of this subparagraph by reason of the existence of any of the restrictions, charges or claims described in section 431-293(a).”

SECTION 2. Section 88-119(1) (E), Hawaii Revised Statutes, as amended, is amended to read as follows:

“Other obligations secured by first mortgages of leasehold interests in improved real estate, provided that (i) each such leasehold inter-

* Edited accordingly

ACT 90

est at such time shall have a current term extending at least two years beyond the stated maturity of the obligation it secures, and (ii) the amount of the obligation shall not at the time investment is made therein exceed 75 per cent of the value of the respective leasehold interest and improvements, except that if the obligation is for an amount of \$50,000 or less, the amount of the obligation shall not exceed 80 per cent of the value of the respective leasehold interest and improvements."

SECTION 3. Section 88-119(2) (C), Hawaii Revised Statutes, as amended, is amended to read as follows:

"(C) Obligations issued or guaranteed by any federal home loan bank (including consolidated federal home loan bank obligations), the home owner's loan corporation, the federal national mortgage association, or the small business administration."

SECTION 4. This Act shall take effect upon its approval.

(Approved June 16, 1970.)

ACT 90

H. B. NO. 1754-70

A Bill for an Act Relating to Tax Exemptions.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. Section 235-1, Hawaii Revised Statutes, is amended by adding the following new definition:

"Section 235-1. Definitions. "Blind" means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or whose visual acuity is greater than 20/200 but is accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees. The impairment of sight shall be certified to by the State department of health or by any state, county, or city and county medical officer duly authorized by the State department of health for this purpose, on the basis of a written report on an examination performed by a qualified ophthalmologist or qualified optometrist duly authorized by the State department of health.

"Corporation" means the same as in the Internal Revenue Code. A "domestic corporation" is one organized under the laws of the State. A "foreign corporation" is any other corporation.

"Deaf" means a person whose average loss in the speech frequencies (500-1000 Hertz) in the better ear is 82 decibels, A.S.A., or worse. The impairment of deafness shall be certified to by the department of health or by any state, county, or city and county medical officer duly authorized by the department of health for this purpose, on the basis of a written report on an examination performed by a qualified otolaryngologist duly authorized by the department of health.

"Dividend" means any distribution by a corporation to its shareholders or holders of an interest therein which is treated as a dividend by the Internal Revenue Code.

"Fiduciary" means the same as in the Internal Revenue Code.

"Fiscal year" means the same as in the Internal Revenue Code.

"Individual" means a person other than a trust, estate, partnership, or corporation, as defined.

"Gross income", "adjusted gross income", and "taxable income" respectively mean the same as gross income, adjusted gross income, and taxable income as defined and determined under the Internal Revenue Code, except as otherwise provided in this chapter.

"Head of household" means any individual who qualified as a head of household under the Internal Revenue Code.

"Income tax law of 1901" means the income tax law enacted by Act 20 of the Session Laws of 1901 as it read from time to time prior to the enactment of the income tax law of 1932.

"Income tax law of 1932" means the income tax law enacted by Act 44 of the Second Special Session Laws of 1932, as it read from time to time prior to the enactment of the income tax law of 1957.

"Income tax law of 1957" means the income tax law enacted by the Twenty-Ninth Legislature, as it reads from time to time.

"Includes" and "including" when used in a definition shall not be deemed to exclude other things otherwise within the meaning of the term defined.

"Person totally disabled" means a person who has:

- (1) Lost or is born without both feet at or before the ankle;
- (2) Lost or is born without both hands at or above the wrist;
- (3) Lost or is born without one hand and one foot;
- (4) An injury or defect resulting in permanent and complete paralysis of both legs or both arms or one leg and one arm;
- (5) An injury or defect resulting in incurable imbecility or insanity".

The disability shall be certified to by the department of health or by any state, county or city and county medical officer duly authorized by the department of health for this purpose, on the basis of a written report on an examination performed by a qualified physician duly authorized by the department of health.

"Nonresident" means every individual other than a resident.

"Nonresident estate" or "nonresident trust" means one other than resident.

"Partnership" has the meaning explained in section 235-60.

"Person" includes an individual, a trust, estate, partnership, association, company, or corporation.

"Regulated investment company" means a corporation which qualifies as such under sections 851 and 852 of the Internal Revenue Code.

"Resident" means (1) every individual domiciled in the state, and (2) ev-

ery other individual whether domiciled in the state or not, who resides in the state. To "reside" in the state means to be in the state for other than a temporary or transitory purpose. Every individual who is in the state more than two hundred days of the taxable year in the aggregate shall be presumed to be a resident of the state. This presumption may be overcome by evidence satisfactory to the department of taxation that the individual maintains a permanent place of abode outside of the state and is in the state for a temporary or transitory purpose. No person shall be deemed to have gained or lost a residence simply because of his presence or absence in compliance with military or naval orders of the United States, or by his filing an application for a presidential ballot under the "Uniform Act for Voting by New Residents in Presidential Elections" in this state pursuant to section (16A-2) or in any other state or while engaged in aviation or navigation, or while a student at any institution of learning.

"Resident estate" means an estate of a resident decedent the fiduciary of which was appointed by a court of this state and the administration of which is carried on in this state, and "resident trust" means a trust of which the fiduciary is a resident of the state or the administration of which is carried on in the state.

"Taxable year" means the calendar year or the fiscal year ending during such calendar year upon the basis of which income is computed under this chapter. "Taxable year" includes, in the case of a return made for a fractional part of a year under this chapter or under regulations prescribed by the department of taxation, the period for which such return is made, and in cases where the department terminates the taxable year in accordance with section 231-24 and levies a jeopardy assessment on income for such portion or period of a year under section 235-109, then the period or portion of the year for which the jeopardy assessment is made.

"Taxpayer" means a person subject to a tax imposed by this chapter.

"Trade or business" includes the performance of the functions of a public office.

"Uniformed services of the United States" means the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service, and all regular and reserve components thereof, including the National Guard. The term "uniformed services of the United States" applies only to persons who are deemed members thereof under the laws of the United States relating to pay and allowances. Service as a member of the uniformed services includes inactive duty training.

"Without regard to source in the state" means that it is not material whether the source is within or without the state."

SECTION 2. Section 235-54(c), Hawaii Revised Statutes, is amended to read as follows:

"(c) A blind person, a deaf person and any person totally disabled, in lieu of the personal exemptions allowed by the Internal Revenue Code, shall be allowed, and there shall be deducted in computing the taxable income of a blind person, a deaf person or a totally disabled person, instead of the exemptions provided by subsection (a), the amount of \$5,000."

SECTION 3. Part I, upon its approval, shall be effective for taxable years beginning on or after January 1, 1970.

PART II

SECTION 4. Section 246-31, Hawaii Revised Statutes, is amended to read as follows:

“Section 246-31 Exemption, persons with impaired sight or hearing and persons totally disabled. (a) Any person who is blind or deaf, as defined in section 235-1 shall, so long as his sight or hearing is so impaired, be exempt from real property taxes on all real property owned by him up to, but not exceeding a taxable value of \$15,000. The impairment of sight or hearing shall be certified to by the state department of health or by any state or county medical officer duly authorized by the state department of health for this purpose.

(b) Any person who is totally disabled, as defined in section 235-1 shall, so long as he is totally disabled, be exempt from real property taxes on all real property owned by him up to, but not exceeding a taxable value of \$15,000. The disability shall be certified to by the state department of health or by any state or county medical officer duly authorized by the state department of health for this Purpose.”

SECTION 5. Part II, upon its approval, shall take effect on July 1, 1970.

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 7. Subject to the foregoing, this Act shall take effect upon its approval.

(Approved June 16, 1970.)

ACT 91

S. B. NO. 408

A Bill for an Act Relating to Retirement for Public Officers and Employees.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 88-81, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 88-81 Average final compensation. Average final compensation is (1) for employees who have become members prior to January 1, 1971, the average annual compensation pay or salary upon which a member has made contributions as required by sections 88-45 and 88-46, (A) during his five highest paid years of credited service, (B) at the option of the member, during his three highest paid years of credited service; provided that no payment of salary in lieu of vacation shall be included in the computation, or (C) if he has less than three years of credited service, then during his actual years of credited service; or (2) for employees who become members on or after January 1, 1971, the average annual compensation pay or salary upon which a member has made contributions as required by sections 88-45 and 88-46, (A) during his three highest

* Edited accordingly

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paid years of credited service; provided that no payment of salary in lieu of vacation shall be included in the computation, or (B) if he has less than three years of credited service, then during his actual years of credited service.

In computing the compensation of a judge, the compensation paid to him by the United States as well as by the Territory shall be included.

For service rendered as a member of the legislature from and after November 5, 1968, the actual annual salary of a member shall be the only amount used for determining the member's average final compensation. For service rendered as a member of the legislature prior to November 5, 1968, and after admission of this State into the union, the annual compensation of a member shall be computed, for the purpose of determining the member's average final compensation, as follows: during a year in which a general session was held, it shall be deemed to have been an amount equal to four times the salary of a member of the legislature for a general session; and during a year in which a budget session was held, it shall be deemed to have been an amount equal to six times the salary of a member of the legislature for a budget session. For service rendered as a member of the legislature prior to the admission of this State into the union, the annual compensation of a member shall be deemed to have been four times the salary of a member of the legislature for a regular session for each year during his term of office."

SECTION 2. This Act shall, upon its approval, take effect on July 1, 1970.

(Approved June 16, 1970.)

ACT 92

S. B. NO. 1134-70

A Bill for an Act Making an Appropriation for Shark Control and Research Activities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000 to be expended for shark control and research activities in the State of Hawaii.

SECTION 2. The sum appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 16, 1970.)

ACT 93

S. B. NO. 1550-70

A Bill for an Act Making an Appropriation for the Development of Bait-Seining Methods for the Hawaiian Skipjack (Aku) Fishery.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to appropriate funds to develop bait-seining methods for the harvest of skipjack tuna to increase the fishing efficiency of the Hawaii fishing industry.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$62,500, or so much thereof as may be necessary, subject to matching funds from private industry in the same amount, to develop bait-seining methods for the Hawaiian skipjack (aku) fishery by chartering a purse seine fishing vessel; provided that the sale of fish caught on the chartered vessel shall be credited to the State and the private industry, in proportion to the amount contributed by each, for offsetting the charter fee of the vessel, the fuel costs, the cost of the plane used to spot the schools of fish, and other costs involved in the charter of the vessel; and provided that any receipts received beyond the foregoing expenses from the sale of the fish shall be retained by the chartered vessel and her crew as an added incentive to increase their catch; and provided further that if funds become available from any other source, the contributions of the State and private industry shall be proportionately reduced. The accounting procedures shall be mutually agreed upon by the State and private industry.

SECTION 3. The department of land and natural resources is authorized to receive county, State, federal, and private funds and assistance and to expend all such funds, including funds appropriated under this Act, for the purpose of this Act and to cooperate fully with governmental and private interests, to the extent permitted by law, in carrying out the purpose of this Act. The department may contract, without regard to chapters 76 and 77, Hawaii Revised Statutes, for the assistance of experts whose services are necessary to carry out the purpose of this Act, provided that State funds for such contractual services shall not exceed \$62,500. Additionally, the department is requested to make a report of the experiment to the legislature no later than October 1, 1970.

SECTION 4. This Act shall take effect upon its approval.
(Approved June 16, 1970.)

ACT 94

H. B. NO. 2002-70

A Bill for an Act Relating to a Conference of High School Student Leaders and Making an Appropriation Therefor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Purpose. The purpose of this bill is to provide for the establishment of an annual conference of high school student leaders, which will enable student leaders in our high schools to identify, discuss and arrive at recommended solutions to major youth problems, with emphasis on school problems that require the attention of and joint action by the students, the department of education and the legislature.

SECTION 2. There is created a student conference committee composed of fourteen student leaders to be appointed by the governor. There shall be two students from each of the seven local school districts and each student shall be a member of the Hawaii association of student councils. The governor shall assign one or more of his staff members to assist in the conduct of the conference.

SECTION 3. It shall be the duty of the student conference committee to:

1. plan and coordinate all phases of the annual conference;
2. set the theme and scope of the conference;
3. set up the agenda of the conference;
4. determine the number of participants;
5. plan and provide for food, lodging and transportation of all participants;
6. evaluate the worth and effectiveness of the conference; and
7. consider and act on any other matter relevant to or necessary to effectuate the purpose of this Act.

SECTION 4. There is created a student conference advisory committee to assist and advise the student conference committee in planning, coordinating and evaluating the annual conference of student leaders. The committee shall be composed of the chairman of the education committee of both the house of representatives and the senate and three members of the department of education appointed by the superintendent of education.

SECTION 5. The annual conference of student leaders will be held during a school vacation within 145 days after the start of school and shall not exceed three days.

SECTION 6. The evaluation report shall be in the form of a report of conference proceedings, including specific recommendations for action by the board of education or the State legislature and copies shall be forwarded to the governor, the State legislature and the board of education within 45 days after the conclusion of the conference.

SECTION 7. There is appropriated out of the general revenues of the State the sum of \$30,000, or so much thereof as may be necessary, to the department of education for the purpose of funding the cost of the conference to include housing, food and transportation of the student leaders attending the conference, as well as other usual costs inherent in conducting conferences of this type.

SECTION 8. This Act shall take effect on July 1, 1970.

(Approved June 16, 1970.)

ACT 95

S. B. NO. 1169-70

A Bill for an Act Relating to Eligibility of Children for Public Assistance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 346-55 of the Hawaii Revised Statutes is amended to read as follows:

“Sec. 346-55 Children. A child shall be eligible for public assistance who:

- (1) Is in need, and has not sufficient income or other resources to provide care and support compatible with decency and health;
- (2) Has not attained the age of eighteen years or, if regularly attending school, has not attained the age of twenty-one;
- (3) Is deprived of parental support or suitable care by reason of the death, continued absence from the home, physical or mental incapacity, unemployment, or cruelty, neglect or depravity on the part of the parent;
- (4) Is living in a home with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, uncle, aunt, first cousin, nephew, or niece in a place of residence maintained by such relative as his own home; or is living in a family home or institution conforming to the standards fixed by the department of social services.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 16, 1970.)

ACT 96

S. B. NO. 1286-70

A Bill for an Act Relating to the Establishment of a Commission on the Year 2000.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Commission established. There is established within the office of the governor for administrative purposes a commission on the year 2000 composed of nine members to be appointed and removed by the governor. The governor shall appoint the chairman of the commission from among its members. The members of the commission shall serve without compensation but shall be reimbursed for travel and other necessary expenses. The university of Hawaii shall render such assistance and research services as the commission may require.

SECTION 2. Duties. The commission shall:

- (1) Study the effects and changes produced by scientific and technological achievements and social changes with respect to the economic, political, cultural, and social systems and the environment of the State of Hawaii and the world;
- (2) Assess the future of Hawaii, including identification of the economic, political, cultural, social, and environmental goals of the State;
- (3) Devise and recommend legislative and administrative action for the accomplishment of the State's economic, political, cultural, social and environmental goals;

* Edited accordingly

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- (4) Assist and coordinate the plans, programs, and activities of individuals, associations, corporations, and agencies, whether public or private, concerned with the future of Hawaii;
- (5) Stimulate and promote an awareness of scientific, technological, and social system changes and their effect on Hawaii's economic, political, cultural, and social systems and environment;
- (6) Through its chairman administer funds allocated to the commission; and accept, disburse, and allocate funds which may become available from other governmental and private sources; provided that all such funds shall be disbursed or allocated in compliance with any specific designation stated by the donor, and in the absence of such designation, such funds shall be disbursed or allocated for the promotion and furtherance of the purpose of this Act.
- (7) Submit an annual report with recommendations to the governor and legislature prior to January 1 of each year. The second annual report shall include recommendations as to the continuing responsibility and role which the State should assume in preparing for Hawaii's future and as to organization and administrative arrangements which should be provided for in law and otherwise.

SECTION 3. Appropriations. There is appropriated out of the general revenues of the State of Hawaii, the sum of \$50,000, or so much thereof as may be necessary, to the office of the governor to accomplish the purposes of this Act.

SECTION 4. Effective date. This Act shall take effect upon its approval, and shall remain in effect until June 30, 1972.

(Approved June 16, 1970.)

ACT 97

S. B. NO. 1810-70

A Bill for an Act Making an Appropriation for State Park Development.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is hereby appropriated out of the general revenues or general obligation bond fund of the State of Hawaii the sum of \$1,115,000, or so much thereof as may be necessary, for the purposes of planning and construction of the following four state parks on the island of Oahu; subject, however, to the availability of federal funds for such purpose:

Nuuanu Pali State Park	\$400,000
Waimanalo Bay Recreational Area	230,000
Makiki Tantalus State Park Complex	335,000
Wahiawa Freshwater Park	150,000

SECTION 2. The director of finance is authorized to issue general obligation bonds of the State to yield the amount necessary to finance the projects contained herein, provided that the sum total of general fund revenues used and general obligation bonds issued shall not exceed \$1,115,000.

SECTION 3. The moneys hereby appropriated are to be expended by the department of land and natural resources for the activities specified above.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 16, 1970.)

ACT 98

S. B. NO. 1975-70

A Bill for an Act Establishing a Hawaii Bicentennial Commission.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Creation of Bicentennial Commission. There is established a commission to be known as the "Hawaii Bicentennial Commission" which shall have charge of all arrangements for the commemoration of the 200th birthday of the United States in 1976.

The commission shall be placed within the office of the governor. It shall not continue beyond December 31, 1977.

SECTION 2. Membership, compensation. The commission shall consist of nine members who shall be appointed by the governor with the advice and consent of the senate as provided by section 26-34, Hawaii Revised Statutes. Four of the members shall be selected from each of the counties, including the city and county of Honolulu, four shall be selected at large, and one shall be selected from the executive branch of the State government. The governor shall designate the chairman of the commission. The members shall receive no compensation for their services but shall be reimbursed for travel and other necessary expenses in the performance of their duties.

SECTION 3. Powers and duties. The commission shall prepare an overall program for commemorating the bicentennial of the American revolution in Hawaii and plan, encourage, develop and coordinate observances and activities commemorating the historic events that preceded and are associated with the American revolution. In preparing its plans and programs, the commission shall consider any related plans and programs developed by the national American revolution bicentennial commission and local and private groups, and it may designate special committees with representatives from such bodies to plan, develop and coordinate specific activities. In all planning, the commission shall give special emphasis to the ideas in the development of the United States, in world affairs and in mankind's quest for freedom.

The commission shall submit to the governor a comprehensive report incorporating its specific recommendations for the commemoration of the American revolution bicentennial and related events. This report may recommend activities such as, but not limited to:

(1) The production, publication and distribution of books, pamphlets,

films and other educational materials on the history, culture and political thought of the period of the American revolution;

- (2) Bibliographical and documentary projects and publications;
- (3) Conferences, convocations, lectures, seminars and other programs;
- (4) The development of libraries, museums, historic sites and exhibits, including mobile exhibits;
- (5) Ceremonies and celebrations commemorating specific events; and
- (6) Programs and activities on the national and international significance of the American revolution and its implications for present and future generations.

The above report of the commission shall also include recommendations for the allocation of financial and administrative responsibility among the public and private authorities and organizations recommended for participation by the commission, and proposals for legislation and administrative action the commission considers necessary to carry out its recommendations.

The governor shall transmit the commission's report to the legislature, together with any comments and recommendations for legislation, and a report of administrative actions taken by him.

SECTION 4. Cooperation. In fulfilling its responsibilities, the commission shall consult, cooperate with and seek advice from appropriate State departments and agencies, local public bodies, learned societies and historical, patriotic, philanthropic, civic, professional and related organizations. State departments and agencies may cooperate with the commission in planning, encouraging, developing and coordinating appropriate commemorative activities.

The chairman of the board of land and natural resources shall determine if there are any sites within the State which are appropriate for preservation or development in commemoration of the American revolution in a manner to insure that fitting observances and exhibits may be held at the sites during the bicentennial celebration. He shall submit the results of his study to the commission in time to afford the commission an opportunity to review the study and to incorporate appropriate findings and recommendations in its report to the governor.

The president of the university of Hawaii shall cooperate with the commission, especially in the encouragement, coordination and publicity of scholarly works and presentations on the history, culture, political thought and commemoration of the American revolution.

The superintendent of education shall cooperate with the commission, especially in the development and display of exhibits and collections and in the development of bibliographies, catalogs and other materials relevant to the period of the American revolution.

SECTION 5. Acceptance of donations, disposition of property. The commission may accept donations of money, personal property or personal services. All property acquired by the commission shall be deposited for preserva-

tion in the State library system, museums, public archives or otherwise disposed or in consultation with the superintendent of education. All money donated to the commission shall be deposited with the director of budget and finance and is appropriated to the commission. Disbursement of such money shall be by State warrants issued in accordance with applicable laws and regulations and based on vouchers signed by the chairman of the commission.

SECTION 6. Annual Reports. The commission shall submit to the legislature an annual report of all activities, including an accounting of all property and money received and disbursed.

SECTION 7. Appropriation. There is appropriated out of the general revenues of the State of Hawaii the sum of \$5,000 for the initial year, or so much thereof as may be necessary, to effectuate the purposes of this Act.

SECTION 8. Effective date. This Act shall take effect upon its approval.
(Approved June 16, 1970.)

ACT 99

S. B. NO. 1583-70

A Bill for an Act Relating to Chronic Renal Disease.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. A new part is added to chapter 321, Hawaii Revised Statutes, to be appropriately numbered and to read as follows:

“PART CHRONIC RENAL DISEASE

Sec. 321- . Program for chronic renal disease. The department of health shall establish and administer a program for aiding in the care and treatment of chronic renal disease as provided in this part.

Sec. 321- . General duties of the department. The department of health shall:

- (1) Extend financial assistance for the care and treatment of certain persons suffering from chronic renal disease;
- (2) Establish standards for determining eligibility for the financial assistance provided by this part;
- (3) Assist in the development and expansion of programs for the care and treatment of persons suffering from chronic renal disease, including dialysis and other lifesaving medical and surgical procedures;
- (4) Assist in the development of programs for the detection and prevention of chronic renal disease;
- (5) Assist the department of social services in making vocational rehabilitation services available to persons suffering from chronic renal disease; and
- (6) Undertake a public information program to educate medical person-

nel, hospitals, and the public concerning chronic renal disease, its detection and prevention, and the care and treatment of its sufferers.

Sec. 321- . Financial assistance; eligibility standards. (a) The department of health shall extend financial assistance under this part to aid in offsetting:

- (1) Expenses directly incurred in dialysis or any other medical or surgical procedures necessary for the care and treatment of chronic renal disease; and
- (2) The cost of purchasing and installing home dialysis equipment and the supplies therefor.

(b) The department shall establish standards of eligibility for financial assistance under this part which, taking into consideration the total funds available under this part and the number of sufferers needing financial assistance, seek to minimize, to the greatest extent possible, the effect of chronic renal disease on the economic well-being of the sufferer and his family. In determining eligibility for financial assistance under this part, the department shall consider the financial resources of the patient, the availability of third party reimbursement for all or part of the expense of the care and treatment of the sufferer, and the extent to which the failure to extend financial assistance under this part would affect the sufferer and his family; provided that the financial assistance extended under this part shall not be used to reduce assistance payments from the department of social services to which the sufferer or his family is otherwise entitled."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$300,000, or so much thereof as may be necessary, to the department of health for the purposes of this Act.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect on July 1, 1970.

(Approved June 16, 1970.)

ACT 100

H. B. NO. 273

A Bill for an Act Relating to Workmen's Compensation and Amending Chapter 386, Hawaii Revised Statutes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 386-32(a) is amended to read as follows:

"Section 386-32. Partial disability. (a) **Permanent partial disability.** Where a work injury causes permanent partial disability the employer shall pay the injured worker a weekly benefit at the rate of sixty-six and two-thirds per cent of his average weekly wages, but not more than \$112.50 nor less than \$35 a week, for the period named in the schedule as follows:

Thumb. For the loss of thumb, seventy-five weeks;

* Edited accordingly

First finger. For the loss of a first finger, commonly called index finger, forty-six weeks;

Second finger. For the loss of a second finger, commonly called the middle finger, thirty weeks;

Third finger. For the loss of a third finger, commonly called the ring finger, twenty-five weeks;

Fourth finger. For the loss of a fourth finger, commonly called the little finger, fifteen weeks;

Phalanx of thumb or finger. Loss of the first phalanx of the thumb shall be equal to the loss of three-fourths of the thumb, and compensation shall be three-fourths of the amount above specified for the loss of the thumb. The loss of the first phalanx of any finger shall be equal to the loss of one-half of the finger, and compensation shall be one-half of the amount above specified for loss of the finger. The loss of more than one phalanx of the thumb or any finger shall be considered as loss of the entire thumb or finger;

Great toe. For the loss of a great toe, thirty-eight weeks;

Other toes. For the loss of one of the toes other than the great toe, sixteen weeks;

Phalanx of toe. Loss of the first phalanx of any toe shall be equal to the loss of one-half of the toe; and the compensation shall be one-half of the amount specified for the loss of the toe. The loss of more than one phalanx of any toe shall be considered as the loss of the entire toe;

Hand. For the loss of hand, two hundred and forty-four weeks;

Arm. For the loss of an arm, three hundred and twelve weeks;

Foot. For the loss of a foot, two hundred and five weeks;

Leg. For the loss of a leg, two hundred and eighty-eight weeks;

Eye. For the loss of an eye by enucleation, one hundred and sixty weeks.

For loss of vision in an eye, one hundred and forty weeks. Loss of binocular vision or of eighty per cent of the vision of an eye shall be considered loss of vision of the eye;

Ear. For the permanent and complete loss of hearing in both ears, two hundred weeks. For the permanent and complete loss of hearing in one ear, fifty-two weeks. For the loss of both ears, eighty weeks. For the loss of one ear, forty weeks;

Loss of use. Permanent loss of the use of a hand, arm, foot, leg, thumb, finger, toe, or phalanx shall be equal to and compensated as the loss of a hand, arm, foot, leg, thumb, finger, toe, or phalanx;

Partial loss or loss of use of member named in schedule. Where a work injury causes permanent partial disability resulting from partial loss of use of a member named in this schedule and where such disability is not otherwise compensated in this schedule, compensation shall be paid for a period which stands in the same proportion to the period specified for the total loss or loss of use of such member as the partial loss or loss of use of that member stands to the total loss or loss of use thereof;

More than one finger or toe of same hand or foot. In cases of permanent partial disability resulting from simultaneous injury to the thumb and one or more fingers of one hand, or to two or more fingers of one hand, or to the great

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toe and one or more toes other than the great toe of one foot, or to two or more toes other than the great toe of one foot, the disability may be rated as a partial loss or loss of use of the hand or the foot and the period of benefit payments shall be measured accordingly. In no case shall the compensation for loss or loss of use of more than one finger or toe of the same hand or foot exceed the amount provided in this schedule for the loss of a hand or foot;

Amputation. Amputation between the elbow and the wrist shall be rated as the equivalent of the loss of a hand. Amputation between the knee and the ankle shall be rated as the equivalent of the loss of a foot. Amputation at or above the elbow shall be rated as the loss of an arm. Amputation at or above the knee shall be rated as the loss of a leg.

Disfigurement. In cases of personal injury resulting in disfigurement the director of labor and industrial relations may, in his discretion, award such compensation as he deems proper and equitable in view of the disfigurement but not to exceed \$10,000. Disfigurement is separate from other permanent partial disability and includes scarring and other disfiguring consequences caused by medical, surgical, and hospital treatment of the employee.

Other cases. In all other cases of permanent partial disability resulting from the loss or loss of use of a part of the body or from the impairment of any physical function, weekly benefits shall be paid at the rate and subject to the limitations specified in this subsection for a period which bears the same relation to a period named in the schedule as the disability sustained bears to a comparable disability named in the schedule. In cases in which the permanent partial disability must be rated as a percentage of total loss or impairment of physical or mental function of the whole man the maximum compensation shall be computed on the basis of the corresponding percentage of \$35,100.

Unconditional nature and time of commencement of payment. Compensation for permanent partial disability shall be paid regardless of the earnings of the disabled employee subsequent to the injury. Payments shall not commence until after termination of any temporary total disability that may be caused by the injury."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 18, 1970.)

ACT 101

H. B. NO. 974

A Bill for an Act Relating to Public Lands of the State of Hawaii.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The third paragraph of section 171-58, Hawaii Revised Statutes, is hereby amended to read as follows:

"Disposition of water rights may be made by lease at public auction as provided in this chapter or by permit for temporary use on a month-to-month basis under such conditions which will best serve the interests of the State and

* Edited accordingly

subject to a maximum term of one year and other restrictions under the law; provided, however, that any disposition by lease shall be subject to disapproval by the legislature or by two-thirds vote of either the senate or the house of representatives or by majority vote of both, in any regular or special session next following the dates of such disposition.”

SECTION 2. Section 171-59(b) of the Hawaii Revised Statutes is amended to read as follows:

“Disposition of public lands for airline, aircraft, marine and maritime operations may be negotiated without regard to the limitations set forth in subsection (a) of this section and section 171-16(c); provided that such disposition encourages competition within the aeronautical and maritime industries; and provided further, that such disposition shall not exceed a maximum term of 35 years.”

SECTION 3. Chapter 266 of the Hawaii Revised Statutes is amended by adding a new section to read as follows:

“**Sec. 266-** . Whenever any disposition of public land is made by the department of transportation, under its powers relating to public lands under its jurisdiction, to any persons, organizations, associations, corporations or clubs for recreational or social purposes, such leases, licenses, permits or right-of-entry, or any extensions thereof, covering the disposition of public lands shall contain provisions reserving adequate public right of way or public access to adjacent public areas over and across the public land disposed.”

SECTION 4. If any provision or portion thereof of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or portions thereof or applications of the Act which can be given effect without the invalid provision or portion thereof or application, and to this and the provisions or portions thereof of this Act are severable.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 6. This Act shall take effect upon its approval.

(Approved June 18, 1970.)

A Bill for an Act Relating to Passenger Car Odometers.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 292, Hawaii Revised Statutes, is amended to read as follows:

* Edited accordingly

“CHAPTER 292

ODOMETERS.

Section 292-1. Purpose. The purpose of this Act is to assure the accuracy of the odometer-speedometer system installed in certain passenger cars introduced for sale, held for sale, offered for sale, sold or re-sold in the State of Hawaii.

Section 292-2. Findings and intent. The legislature finds that the automobile industry is cognizant of the concern of the legislature in regard to the over-registration of passenger car odometers and is desirous of assisting in eliminating or prohibiting the inclusion of any mileage measuring device in a passenger car that does not comply with the accuracy requirements of the National Bureau of Standards for commercial odometers, as set forth in the National Bureau of Standards Handbook 44 - 3d Edition.

Section 292-3. Definitions. As used in this Chapter:

- (1) “Certificate of accuracy” means a written warranty, limited to and defining a single specific entity, and attesting to and defining the accuracy of that entity.
- (2) “Director” means the director of weights and measures.
- (3) “Endorsement” means an entry, made upon a certificate of accuracy, which shall include the exact passenger car odometer reading in miles to the nearest mile.
- (4) “System error” means the difference between the indication of the odometer system of a passenger car whose total system is theoretically error free and that indication of a passenger car odometer system that is influenced in part or by the mean effective rolling diameter of the driver tires, tractive effort, differential and transmission influence or mismatch, speedometer drive gear and flexible drive cable effect, instrument imperfection or by any other influential factor that may cause a passenger car odometer system to indicate some value other than the standard distance against which such system is compared.

Section 292-4. Certificate requirement. Irrespective of any other general or specific law, regulation, or ordinance pertaining to passenger cars or their registration, inspection, fees, taxes, or licensing, no person shall introduce into the state for sale, hold for sale, offer for sale, sell, or resell, including barter or exchange, any passenger car unless such passenger car has installed an operable mileage measuring system and the mileage measuring system is described in detail on the manufacturer’s accompanying certificate of accuracy.

The certificate of accuracy shall contain an endorsement reflecting the condition of accuracy of the mileage measuring system, the exact odometer reading to the nearest mile and the odometer error referenced to a standard statute mile of 5280 feet as prescribed by the National Bureau of Standards.

The original endorsement shall be the responsibility of the manufacturer who may delegate this function to his authorized agent. Such delegation of authority does not negate the manufacturer's responsibility for supplying a correct certificate of accuracy, properly endorsed as required herein.

Section 292-5. Verification sampling. For purposes of verifying the certificate of accuracy and determining compliance of the mileage measuring system installed in a specific passenger car with the accuracy requirements of the National Bureau of Standards for commercial odometers, the director shall establish a sampling procedure whereby a lot of passenger cars of a given year and make may be approved or rejected on the basis of random sampling techniques. Such procedure shall not preclude one-hundred percent inspection if in the opinion of the director such action is warranted.

Section 292-6. Verification sub-station. The director may authorize and establish official odometer inspection sub-stations whenever he finds that the best interest of the public will be served thereby. The director shall ascertain that the equipment and personnel at any prospective or established official odometer inspection sub-station meets the requirements of this Act and the accuracy requirements for passenger car mileage measuring systems as prescribed by the accuracy requirements of the National Bureau of Standards for commercial odometers, prior to issuance of or to the continuation of any authorization to operate an official odometer inspection sub-station.

The official odometer inspection sub-station shall maintain its equipment in such a condition that it complies with the standards for accuracy established by the National Bureau of Standards.

The director shall establish a minimum annual fee of \$10 for licensing official odometer inspection sub-stations. This fee shall entitle a licensee to certify the accuracy, after proper testing, of 100 passenger cars per year. An additional fee of 10 cents per car shall be assessed for cars tested and certified in excess of 100 cars, which shall be payable in one payment to the director of finance, State of Hawaii, and forwarded to the director of weights and measures no later than June 15 of each year.

Re-application for license as an official odometer inspection sub-station shall be made to the director of weights and measures and shall be accompanied by the \$10 fee and shall be presented no later than June 15 of each year to the director of weights and measures.

Section 292-7. Fees. Every passenger car shall be assessed a verification fee for verifying the certificate of accuracy and the accuracy of the mileage measuring system, with the standards specified in the accuracy requirement of the National Bureau of Standards for commercial odometers. Such fee shall be charged irrespective of whether the mileage measuring system is approved or rejected and irrespective of the method used for such determination. Every passenger car shall, if rejected, be corrected and again be subject to verification and an additional verification fee.

The director shall establish a fee schedule for verification and such

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schedule shall reflect an additional fee for each subsequent verification or test after rejection.

Section 292-8. Replacement or substitute certificate. The director may after checking the accuracy of the mileage measuring system issue a replacement or substitute certificate in lieu of an original certificate of accuracy when such issuance is necessary to allow any person to transfer title of a particular passenger car upon the payment of a fee as established by the director and upon presentation of sufficient evidence of ownership. Such replacement or substitute certificate shall not be construed to be a certificate certifying the ownership of the passenger car involved.

The director shall establish a fee schedule for the issuing of a replacement or a substitute certificate and such fee shall be made payable to the director of finance, State of Hawaii.

Section 292-9. Record of verification. The director shall maintain a duplicate file of all certificates of accuracy, original, replacement or substitute for a period of at least ten years.

The duplicate file shall be progressively numbered or otherwise serially identified and the director shall provide means to associate the duplicate file certificate with the original, replacement or substitute certificate.

Section 292-10. Penalties. Any person who violates any of the provisions of this Act or of the regulations promulgated pursuant thereto, or who knowingly or willfully or intentionally falsifies a certificate of accuracy by entry of false or erroneous data, information, endorsement or system error, or in any other way, shall be fined not less than \$100 nor more than \$500.

Section 292-11. Implementation; rules. The director shall pursuant to chapter 91, Hawaii Revised Statutes, as amended, promulgate rules and regulations for the effective implementation and enforcement of this Act.

Section 292-12. General powers and duties of the director. The director shall enforce this Act and rules and regulations issued pursuant hereto. The director may delegate to any subordinate any of his powers and duties which he deems necessary for the effective enforcement and implementation of this Act."

SECTION 2. Immunity from prosecution. No person shall be prosecuted for any violation of Act 279, Session Laws of Hawaii 1969.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 4. Effective date. This Act shall take effect January 1, 1971, and shall apply to all 1972 model year passenger cars and all subsequent model year passenger cars, except that section 2 above shall take effect upon approval of this Act.

(Approved June 18, 1970.)

* Edited accordingly

A Bill for an Act Relating to the Uniform Securities Act (Modified).

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 485-4, Hawaii Revised Statutes, is amended to read:

“Sec. 485-4. Exempt securities. The following securities are exempt from sections 485-8 and 485-25(a) (7):

- (1) Any security (including a revenue obligation) issued or guaranteed by the United States, any state or territory, any political subdivision of a state or territory, or any agency or corporate or other instrumentality of one or more of the foregoing, or any certificate of deposit for any of the foregoing;
- (2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision, of such province, any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;
- (3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank, savings institution, or trust company organized and supervised under the laws of any state or territory;
- (4) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association or any building and loan or similar association organized under the laws of any state or territory and authorized to do business in the State;
- (5) Any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of any state or territory and authorized to do business in the State;
- (6) Any security issued or guaranteed by any federal credit union, or any credit union or similar association organized and supervised under the laws of the State;
- (7) Any security issued or guaranteed by any common carrier, public utility, or holding company which is (A) subject to the jurisdiction of the Interstate Commerce Commission; (B) a registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that Act; (C) regulated in respect of its rates and charges by a governmental authority of the United States or any state or territory; or (D) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States or any state or territory;

- (8) Any security listed or approved for listing upon notice of issuance on any exchange registered or exempted under the Securities Exchange Act of 1934, as amended; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe for any of the foregoing;
- (9) Any security issued by any issuer organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or reformatory purposes, or as a chamber of commerce or trade or professional association;
- (10) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal;
- (11) Any investment contract issued in connection with an employees' stock purchase, savings, pension, profit-sharing, or similar benefit plan, if the commissioner is notified in writing thirty days before the inception of the plan."

SECTION 2. Section 485-11, Hawaii Revised Statutes, is amended to read:

"Sec. 485-11. Registration by coordination. Any security for which a registration statement has been filed under the Securities Act of 1933 in connection with the same offering may be registered by coordination.

- (1) A registration statement under this section shall contain the following information and be accompanied by the following documents:
 - (A) Three copies of the prospectus filed under the Securities Act of 1933 together with all amendments thereto;
 - (B) If the commissioner of securities requires a copy of the articles of association and by-laws (or their substantial equivalents) currently in effect, a copy of any agreements with or among underwriters, a copy of any indenture or other instrument governing the issuance of the security to be registered, and a specimen or copy of the security;
 - (C) If the commissioner requests, any other information, or copies of any other documents filed under the Securities Act of 1933; and
 - (D) An undertaking to forward all amendments to the prospectus filed under the Securities Act of 1933 promptly and in any event not later than the first business day after the day they are forwarded to or filed with the Securities and Exchange Commission, whichever first occurs.

- (2) A registration statement under this section automatically becomes effective at the moment the federal registration statement becomes effective if all the following conditions are satisfied:
- (A) No order denying registration is in effect and no proceeding is pending under section 485-13;
 - (B) The registration statement has been on file with the commissioner for at least ten days; and
 - (C) A statement of the maximum and minimum proposed offering prices and the maximum underwriting discounts and commissions has been on file for two full business days or such shorter period as the commissioner permits and the offering is made within those limitations.

The registrant shall promptly notify the commissioner by telephone or telegram of the date and time when the federal registration statement became effective and the content of the price amendment, if any, and shall promptly file a post-effective amendment containing the information and documents in the price amendment. 'Price amendment' means the final federal amendment which includes a statement of the offering price, underwriting and selling discounts or commissions, amounts of proceeds, conversion rates, call prices, and other matters dependent upon the offering price. Upon failure to receive the required notification and post-effective amendment with respect to the price amendment, the commissioner may enter an order, without notice or hearing, retroactively denying effectiveness to the registration statement or suspending its effectiveness until compliance with this paragraph, if he promptly notifies the registrant by telephone or telegram (and promptly confirms by letter or telegram when he notifies by telephone) of the issuance of the order. If the registrant proves compliance with the requirements of this paragraph as to notice and post-effective amendment, such order is void as of the time of its entry. The commissioner may waive either or both of the conditions specified in clauses (B) and (C). If the federal registration statement becomes effective before all these conditions are satisfied and they are not waived, the registration statement automatically becomes effective as soon as all the conditions are satisfied. If the registrant advises the commissioner of the date when the federal registration statement is expected to become effective, the commissioner shall promptly advise the registrant by telephone or telegram, at the registrant's expense, whether all the conditions are satisfied and whether he then contemplates the entry of any order under section 485-13; but this advice by the commissioner does not preclude the institution of such a proceeding at any time.

- (4) Unless suspended or revoked by the commissioner pursuant to section 485-13, a registration statement effective under this section is effective for a period of one year and may be renewed for additional pe-

riods of one year by filing prior to expiration of registration a copy of another or further prospectus as filed under the Securities Act of 1933, together with the payment of a renewal fee of \$20.

- (5) Every person filing a registration statement under this section shall, at the time of filing the same, pay a filing fee of \$50."

SECTION 3. Section 485-25(a), Hawaii Revised Statutes, is amended to read:

"(a) It is unlawful for any person, in connection with the offer, sale, or purchase (whether in a transaction described in section 485-6 or otherwise) of any security (whether or not of a class described in section 485-4), in the State, directly or indirectly:

- (1) To employ any device, scheme, or artifice to defraud;
- (2) To make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading;
- (3) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person;
- (4) To issue, circulate, or publish any prospectus, circular, advertisement, printed matter, document, pamphlet, leaflet, or other literature (in this chapter sometimes referred to collectively as 'advertising matter') which shall contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein made, in the light of the circumstances under which they are made, not misleading;
- (5) To issue, circulate, or publish any advertising matter or make any written representation, unless the name of the person issuing, circulating, publishing, or making the same and the fact that the person is issuing, circulating, or making the same shall be clearly indicated thereon;
- (6) To make any statement or representation, or issue, circulate, or publish any advertising matter containing any statement, to the effect that the security has been in any way approved or endorsed by the commissioner of securities; or
- (7) To issue, circulate, or publish any advertising matter unless a copy thereof has been previously filed with the office of the commissioner, or unless the commissioner has by rule or order exempted the filing of any advertising material."

SECTION 4. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

* Edited accordingly

SECTION 5. This Act shall take effect upon its approval.

(Approved June 18, 1970.)

ACT 104

H. B. NO. 1380-70

A Bill for an Act Providing for Intermediate Care Facilities and Care Homes and Making an Appropriation Therefor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 346-14, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 346-14 Duties generally. Except as otherwise provided by law, the department of social services shall:

- (1) Administer, establish programs and standards, and promulgate rules as deemed necessary for all public assistance, including payments for medical care;
- (2) Establish, extend, and strengthen services for the protection and care of neglected children and children in danger of becoming delinquent;
- (3) Assist in preventing family breakdown;
- (4) Place, or cooperate in placing neglected children in suitable private homes or institutions, and place, or cooperate in placing, children in suitable adoptive homes;
- (5) Have authority to establish, maintain, and operate receiving homes for the temporary care and custody of neglected children until suitable plans are made for their care; and accept from the police and other agencies, for temporary care and custody, any neglected child until satisfactory plans are made for the child;
- (6) Cooperate with the federal government in carrying out the purposes of the Social Security Act, and in other matters of mutual concern pertaining to public welfare, public assistance, and child welfare services, including the making of such reports, the adoption of such methods of administration and the making of such rules and regulations as are found by the federal government, or any properly constituted authority thereunder, to be necessary or desirable for the efficient operation of the plans for such public welfare, assistance, and child welfare services, or as may be necessary or desirable for the receipt of financial assistance from the federal government;
- (7) Carry on research and compile statistics relative to public and private welfare activities throughout the State, including those dealing with dependence, defectiveness, delinquency, and related problems;
- (8) Develop plans in cooperation with other public and private agencies for the prevention and treatment of conditions giving rise to public welfare problems;

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- (9) Make such rules governing the procedure in hearings, investigations, recording, registration, determination of allowances, and accounting and conduct such other activities, as may be necessary or proper to carry out this chapter, which rules, when approved by the governor, shall have the force and effect of law;
- (10) Supervise or administer any other activities authorized or required by this chapter, including the development of the staff of the department through in-service training and educational leave to attend schools and other appropriate measures, and any other activities placed under the jurisdiction of the department by any other law;
- (11) Make, prescribe, and enforce such policies and rules governing the activities provided for in section 346-31 as it deems advisable, including the allocation of moneys available for assistance to persons assigned to work projects among the several counties or to particular projects where such apportionment has not been made pursuant to other provisions of law, if any, governing expenditures of the funds, which rules, when approved by the governor, shall have the force and effect of law;
- (12) Have authority to establish, maintain and operate intermediate care facilities and care homes for the care of medical indigents; and to enter into contracts with nonprofit corporations for the maintenance and operation of said facilities and homes."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$280,000 or so much thereof as may be necessary for the planning of intermediate care facilities and care homes. Said sum appropriated shall be expended by the department of accounting and general services for the purpose of this Act.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 19, 1970.)

ACT 105

H. B. NO. 397

A Bill for an Act Relating to the Establishment of an Instrumentality for Housing and Community Development.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is hereby amended by adding a new chapter to be numbered and to read as follows:

* Edited accordingly

"CHAPTER 359A

HAWAII HOUSING AUTHORITY - HOUSING PROJECTS

Section 359A-1. Purpose. The legislature of the State of Hawaii has determined that there exists in the State of Hawaii a critical shortage of housing units for lower and middle income residents. Various studies have indicated the need for from between 40,000 to 50,000 units at the present time. These studies show that the forces of population increase and obsolescence will combine to create a need for over 250,000 units by 1985. Since 1961, the economy has been producing an average of less than 10,000 units annually.

The legislature has also determined that decent shelter and the responsibility of home ownership contributes to the pride and dignity of man and makes him a greater asset to the community and that the lack of decent shelter and the responsibility of home ownership contributes to harmful frustration in our community. The home is the basic source of shelter and security in society, the center of our society which provides the basis for the development of our future citizens. Frustration in the basic necessity of decent shelter, in the satisfaction of the basic drive in man to provide a decent home for his family, provokes an unrest in our community that is harmful to the overall fiber of our society.

Studies have pointed out that the causes for the high cost of housing are multiple. They include the cost and availability of land, the cost of development, the cost and availability of financing, the cost added by government regulation, the cost and availability of labor and materials, the inflationary state of the economy that makes high cost housing more profitable to produce and more attractive to "risk" capital. In the most elemental way the housing shortage is caused by conflicting priorities in our pluralistic society. Additionally, the legislature is aware that the housing market is a total market and that neglecting the interests of renters or higher income potential homeowners would not be proper.

When conflicting priorities, otherwise wholesome in a great state, combine to frustrate one of the basic needs of that state so as to endanger its general health and welfare, the elected representatives of the people of such state have the obligation to provide to the best of their ability the means whereby these priorities can be resolved.

The legislature of the State of Hawaii has determined that the problem of providing reasonable priced housing in Hawaii is so complex that existing institutions cannot solve it without a comprehensive overview and direction. The legislature has determined that the problem must be solved for the general well-being of the State of Hawaii and that the legislature has the duty to provide the overview and the direction.

Sec. 359A-2. Special assistant for housing. There shall be in the office of the governor a special assistant for housing to be appointed by the governor without regard to chapters 76, 77 and 78 of the Hawaii Revised Statutes. The special assistant shall be "ex officio" the chairman of the Hawaii housing authority with a vote.

Sec. 359A-3. Housing authority - staff. The Hawaii housing authority shall administer this Act. The authority may, with the consent of the governor and not subject to chapters 76, 77 and 78, Hawaii Revised Statutes, appoint a staff consisting of a qualified financial aide, development aide and attorney to assist in carrying out the functions and purposes of this Act.

Sec. 359A-4. Powers and duties, generally. The authority shall: (a) Develop fee simple or leasehold property, construct dwelling units thereon, including condominiums and planned units, and sell, lease or rent or cause to be leased or rented the land and the completed units at the lowest possible price to qualified residents of the State of Hawaii, and the authority shall perform such functions in partnership with a qualified partner or partners as hereinafter defined, or shall act in its own behalf.

A qualified resident means a person who:

- (1) Is a citizen of the United States or a declarant alien who has resided in the State for a period of five years or more;
- (2) Is at least twenty years of age;
- (3) Is a bona fide resident of the State and has a bona fide intent to reside in the dwelling unit purchased or rented under this Act; and
- (4) In the case of purchase of a dwelling unit in fee simple or leasehold, has a gross income sufficient to qualify for the loan to finance the purchase.

The authority shall develop policies whereby those most deserving of housing shall be given preference. In developing the policies, the authority shall consider the applicant's household income, the number of dependents, and such other factors as it may deem pertinent.

Any person whom the authority finds to be within one of the following classes, shall not be eligible to become a purchaser of a dwelling unit, to wit:

- (A) A person who himself or whose husband or wife or both (when husband and wife are living together) owns or own in fee simple or leasehold lands suitable for dwelling purposes within the county and in or reasonably near the place of residence or place of business of the person; and
- (B) A person who himself or whose husband or wife (when husband and wife are living together) has pending an unrefused application to purchase a dwelling unit under this Act from the authority.

The authority shall require all applicants for the purchase of dwelling units to make application therefor under oath, and may require additional testimony or evidence under oath in connection with any application. The determination of any applicant's eligibility under this Act by the authority shall be conclusive as to all persons thereafter dealing with the property; but the making of any false statement knowingly by the applicant or other person to the authority in connection with any application shall constitute perjury and be punishable as such. The authority shall establish a system to determine prefer-

ences by lot in the event that it receives more qualified applications than it has units available.

(b) Adopt and promulgate, in accordance with chapter 91, Hawaii Revised Statutes, all rules and regulations necessary to carry out the purpose of this Act, including, upon direction from the governor and for such period as he shall authorize, rules and regulations on health, safety, building, planning, zoning, and land use which relate to the development, subdivision, and construction of dwelling units in projects in which the State, through the authority, shall participate. Upon the promulgation and adoption of such rules and regulations, they shall have the force and effect of law and shall supersede, for all projects in which the State through the authority shall participate, all other inconsistent laws, ordinances, and rules and regulations relating to the use, zoning, planning, and development of land, and the construction of dwelling units thereon; provided, however, that such rules and regulations shall not contravene any safety standards or tariffs approved by the public utilities commission for public utilities. Such rules and regulations shall follow existing law as closely as is consistent with the production of low cost housing with standards which meet minimum requirements of good design, pleasant amenities, health, safety and coordinated development; provided, however, that any rules or regulations promulgated hereunder shall, before becoming effective, be presented to the legislative body of each county in which they will be effective and the legislative body of any county may within 45 days approve or disapprove, for that county, any or all of the rules and regulations by a majority vote of its members. On the forty sixth day after submission any rules and regulations not disapproved shall be deemed to have been approved by the county.

Notwithstanding the foregoing, the authority shall, prior to developing any land designated as conservation or agriculture, obtain the approval of the land use commission. The authority shall not develop, subdivide or construct dwelling units in areas set aside as state monuments or historic sites.

The authority shall also adopt and promulgate rules and regulations relating to determining preference among applicants for housing and determining qualifications for and recompense or profit distribution to any partner or partners as hereinafter defined.

(c) Acquire, by eminent domain, exchange or negotiation, property required for the purposes of this Act.

(d) Make and execute contracts or other instruments necessary or convenient to carry out the purpose of this Act.

(e) Upon authorization by the legislature, cause the State of Hawaii to issue general obligation bonds to finance:

- (1) Land acquisition;
- (2) The development and improvement of land;
- (3) The construction of dwelling units;
- (4) The purchase, lease or rental of land and dwelling units by qualified residents under this Act;

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- (5) Payment of any services contracted for under this Act, including profit or recompense paid to partners;
 - (6) The cost of repurchase of units under section 359A-9; and
 - (7) Any other monies required to accomplish the purposes of this Act.
- (f) Do all things necessary and convenient to carry out the purposes of this Act.

Sec. 359A-5. Eminent domain, exchange or use of public property. The authority may, through exchange, voluntary negotiation or by eminent domain, acquire any private land, in the State for the purpose of this Act. The authority shall exercise the power of eminent domain in the same manner as provided in chapter 101, Hawaii Revised Statutes. The exchange of land shall be in accordance with the provisions of chapter 171, provided that anything contained in section 171-50 to the contrary notwithstanding, when state lands are exchanged for private lands, which private lands are classified for intensive agricultural use, the authority shall determine the agricultural productivity of the private lands and, whenever and wherever possible, exchange so much state lands as shall be sufficient to approximate or equal the productivity of the private lands so acquired by the state. The authority may also develop state lands but not federal lands, state monuments or historical sites or parks and subject to the prior approval of the land use commission in the case of conservation or agricultural land. Whenever it proposes to develop public lands it shall file with the department of land and natural resources a petition setting forth such purpose and such petition shall be conclusive proof that the use to which the property is sought to be put is a superior public use to that to which it has already been appropriated. The fair market value of the public land may be paid by the authority and computed as cost or subsidized by the State subject to reimbursement under Sec. 359A-9.

Sec. 359A-6. Dwelling unit project, construction and sponsorship of. The authority shall, on behalf of the State, or in partnership with qualified developers and contractors, develop real property and construct dwelling units thereon. Qualifications for developers and contractors shall be provided by rules and regulations to be promulgated by the authority in accordance with chapter 91. Any person, if qualified, may act as both the developer and the contractor. In selecting the partners or in contracting any services or materials for the purposes of this Act, the authority shall not be subject to the competitive bidding laws.

The authority and the partners selected, if any, shall be partners. The authority shall have sole control of the partnership, shall keep all books of the partnership, and shall ascertain all costs of the partnership, including the cost of services performed by any other partners and it shall audit the same. The other partners shall perform services for the partnership under the direction of the authority and shall be reimbursed for all costs relating to the project as certified by the authority including administrative and overhead costs. Additionally the other partners shall, upon occupancy of the dwelling unit by the purchaser be entitled to a guaranteed gross share of not more than fifteen per cent

of the actual cost of the project pro rated to such dwelling unit less any amount subsidized by the State. Subsidies shall include tax relief granted under section 359A-15, unrecovered development and/or land costs and any other subsidized items as defined in rules and regulations to be promulgated by the authority pursuant to chapter 91. The percentage of such share shall be determined by the authority by contract with the partner or partners based upon the nature of the services rendered by them. The authority may require the performance bonds be posted to the benefit of the State with surety satisfactory to it guaranteeing performance by the other partners, or the State may act as a self insurer requiring such security, if any, from the other partners, as the authority shall deem necessary. The authority may also contract, subject to rules and regulations adopted pursuant to chapter 91 but without reference to competitive bidding laws, with any developer, contractor, engineer, architect or any other person or firm whose services would aid in accomplishing the purposes of this Act.

Sec. 359A-7. Financing. The director of finance is hereby authorized to issue general obligation bonds of the State in the amount of \$60,000,000, for the purposes of this Act. Pending the receipt of funds from the issuance and sale of general obligation bonds, the amount required for the purposes of this Act shall be advanced from the general fund of the State. Upon the receipt of the bond funds, the general fund shall be reimbursed. The proceeds of the bonds may be used for any of the purposes set forth in Sec. 359A-4(e) including permanent financing. Interest on any interim money shall be computed at one per cent more, rounded to the nearest one eighth of one per cent, than that paid by the State for the general obligation bonds issued for the project. Interest so computed shall be a cost of the project to be prorated over the units.

Sec. 359A-8. Sale, mortgages, agreement of sale, other instruments. (a) The authority shall sell completed dwelling units developed and constructed hereunder to qualified residents in fee simple, or shall cause them to be leased or rented to qualified residents, at a price or rental based on cost as determined by the authority. The gross share to the other partners, or contract payments, and any amounts subsidized by the State, including but not limited to the land, need not be counted as cost so as to increase the price. Such may be borne by the State, under rules and regulations adopted pursuant to chapter 91, Hawaii Revised Statutes, subject to reimbursement upon sale as is provided for in section 359A-9.

(b) If a qualified purchaser is unable to obtain sufficient funds at reasonable rates from private lenders, the authority may, by way of mortgage, agreement of sale, or other instrument to secure the indebtedness, loan to the purchaser up to one hundred per cent of the purchase price. The purchaser shall in such event execute with the authority an agreement of sale or mortgage or other instrument under the terms of which the unpaid principal and the interest thereon shall be paid in monthly installments over a period of not more than forty years. The interest on the loan shall be one per cent more, rounded to the nearest one-eighth of one per cent, than that paid by the State for the general obligation bonds issued for the project. Every mortgage, agreement of sale,

other instrument to secure the indebtedness, or instrument of indebtedness may contain such other provisions as are usually found in such instruments and shall provide that the purchaser may repay the whole or any part of the unpaid balance of the purchase price plus accrued interest at any time without prepayment penalty.

If the purchaser defaults on the payment of any loan, the authority shall take all necessary action to collect the delinquent principal and interest on the loan and may take all actions allowed to holders of obligations, including the power to repossess, lease, rent, repair, renovate, modernize, and sell the property foreclosed, subject to the restrictions hereinafter described.

The mortgages, agreements of sale, and other instruments of indebtedness may, at the direction of the authority, be assigned to and serviced by commercial banks and other lending institutions doing business in the State at a fee of not more than one-half of one per cent of the amount loaned to the purchaser.

Sec. 359A-9. Restrictions on transfer and use of dwelling units. (a) For a period of ten years after a dwelling unit is purchased from the authority or an agreement of sale is executed, whether on fee simple or leasehold property the following restrictions shall apply to the use and transfer of the unit and the property:

- (1) Any dwelling unit sold by the authority shall be owner occupied. Violation of this provision is sufficient cause for the authority to repurchase the dwelling unit as provided for in paragraph (2);
- (2) Title to the dwelling unit and the property or the lease may not be transferred except to the authority, at a price which shall not exceed the greater of the amount of the original cost to the purchaser or the fair market value of the premises less any amounts subsidized by the State, as determined by the authority, and less also interest thereon at the same rate as that paid by the purchaser on his mortgage or other security agreement, provided, however, that title to a dwelling unit and the property or lease may pass to a family member by devise or through the laws of descent, who would otherwise qualify under the rules and regulations established by the authority.
- (3) Any deed, lease, agreement of sale, mortgage, or other instrument of conveyance issued by the authority or by any fee owner in the case of a lease shall expressly contain the restriction on transfer and use of the dwelling unit as prescribed in this section.

(b) Any time after ten years have elapsed from the date a dwelling unit is purchased from the authority, the purchaser may sell the unit and sell or assign the property to any person free from any price restrictions, provided that the purchaser shall be required to pay to the authority:

- (1) The balance of the mortgage note, agreement of sale or amount owing under similar instrument.
- (2) To the extent that any profit is realized, any subsidy made by the authority or the State nor counted as cost under Sec. 359A-8 but

charged to the dwelling unit by good accounting practice as determined by the authority whose books shall be prima facie evidence of the correctness of the cost.

- (3) To the extent that any profit is realized, interest on the amount determined under paragraph (2) above computed from the date of occupancy, at the same rate as that paid by the purchaser on his mortgage or other security agreement.
- (4) If any proposed sale or transfer would not generate sufficient profit to enable the repayment of all sums under paragraphs (1), (2) and (3) above the authority shall have the right of first refusal to repurchase the unit. These provisions of subsection (b) shall be incorporated in any deed, lease, agreement of sale, mortgage or other instrument of conveyance issued by the authority.

(c) Notwithstanding the provisions of subsection (a) and (b) above the authority may at any time consent to the sale or transfer of a unit for such a price and on such terms as the authority may determine, in accordance with adopted rules or regulations, to preserve the intent of these provisions without the necessity for the State to repurchase the unit.

Sec. 359A-10. Revolving fund. There is created a dwelling unit revolving fund. The funds appropriated for the purpose of this Act and all moneys received or collected by the authority under the provisions of this Act shall be deposited in the revolving fund except as is provided in sections 359A-12(k), 359A-20 and 359A-29. The proceeds in the fund shall first be used to reimburse the general fund to pay the principal and interest on general obligation bonds issued for the purposes of this Act, then for the necessary expenses in administering the Act, and finally for carrying out the purposes of this Act.

Sec. 359A-11. Private financing of projects. (a) The authority is authorized to enter into contracts with any eligible bidder to provide for the construction of urgently needed housing for persons of low and/or moderate income, elderly persons or students or faculty of institutions of higher education on lands owned or leased by the State and situated on suitable sites for the purpose of providing suitable living accommodations for persons of low and/or moderate income, elderly persons, or students or faculty of institutions of higher education on lands owned or leased by the State and situated on suitable sites. Any such contract shall provide that the housing or housing project shall be placed under the control of the authority, as soon as the unit is available for occupancy. Any such contract shall also provide that the capital stock of the mortgagor (where the mortgagor is a corporation) be transferred to the authority, when the housing has been completed. Any such contract shall contain such terms and conditions as the authority may determine to be necessary to protect the interests of the State. Any such contract shall provide for the furnishing by the contractor of a performance bond and a payment bond with a surety or sureties satisfactory to the authority, and the furnishing of such bonds shall be deemed a sufficient compliance with the provisions of law and no additional bonds shall be required under law. Before the authority shall enter into

any contract as authorized by this section for the construction of housing, it shall invite the submission of competitive bids after advertising in the manner prescribed by law.

(b) For the purposes of this section, the term 'eligible bidder' means a person, partnership, firm, or corporation determined by the authority:

- (1) To be qualified by experience and financial responsibility to construct housing of the type described in subsection (a) of this section;
- (2) To have submitted the lowest acceptable bid; and
- (3) To form a corporation to comply with chapter 416 of the Hawaii Revised Statutes to receive a lease of lands.

(c) Notwithstanding any other provision of law, the authority is authorized to acquire the capital stock of mortgagors holding property covered by a mortgage guaranty under this Act and established by this section, and to exercise the rights as holder of such capital stock during the life of such mortgage and, upon the termination of the mortgage, to dissolve the corporation; to guarantee the payment of notes or other legal instruments of such mortgagors; and to make payments thereon. All housing facilities placed under the control of the authority pursuant to the provisions of this section shall be deemed to be housing facilities under the jurisdiction of the State of Hawaii.

(d) On request by the authority, the attorney general shall furnish to the authority, an opinion as to the sufficiency of title to any property on which it is proposed to construct housing, or on which housing has been constructed, under this section. If the opinion of the attorney general is that the title to such property is good and sufficient, the authority is authorized to guarantee, or enter into a commitment to guarantee, the mortgagee, against any losses that may thereafter arise from adverse claims to title. None of the proceeds of any mortgage loan hereafter insured shall be used for title search and title insurance costs. Provided, that if the authority determines in the case of any housing project, that the financing of the construction of such project is impossible unless title insurance is provided, the authority may provide for the payment of the reasonable costs necessary for obtaining title search and title insurance. Any determination by the authority under the foregoing proviso shall be set forth in writing, together with the reasons therefor.

(e) The State shall be authorized to guarantee the repayment of 100 per cent of the principal and interest of loans from commercial lenders for the purposes of this section pursuant to rules and regulations adopted and promulgated by the authority which shall conform as closely as is possible to the practices of the federal housing administration in insuring loans under the Capehart Housing Act (Title 42, USC).

(f) The authority shall promulgate rules and regulations pursuant to chapter 91 of the Hawaii Revised Statutes to carry out the provisions of this section.

Sec. 359A-12. State mortgage guarantee. (a) At the request of the authority the director of finance may guarantee the top twenty five per cent of the principal balance of real property mortgage loans of qualified single-family or

multi-family housing, plus the interest due thereon, made to qualified borrowers by qualified private lenders; provided, however, that at no time shall the State's liability, contingent or otherwise, on such guarantees exceed \$10,000,000.

(b) Loans secured and made under this section shall bear simple interest on the unpaid principal balance charged on the actual amount disbursed to the borrower and the rate of interest shall not exceed the rate to be established from time to time by the director of finance. The loans shall be secured by a duly recorded first mortgage upon the fee simple or leasehold interest of the borrower in the single-family or multi-family dwelling owned and occupied by the borrower and his permitted assigns. Private lenders shall include all banks, savings and loan associations, mortgage companies, and other qualified companies and trust funds whose business includes the making of loans in the State.

(c) Loans secured and made under this section shall be limited to qualified single-family and multi-family housing in accordance with the standards and regulations as may be promulgated and administered by the authority.

(d) To be eligible for loans under this section, a qualified borrower shall be:

- (1) A citizen of the United States who has resided in the State for at least three years, or any alien who has resided in the State for at least five years;
- (2) A sound credit risk with ability to repay the money borrowed;
- (3) Meet the standards and regulations as may be promulgated by the authority; and
- (4) Willing to comply with the regulations as may be promulgated by the director of finance.

The authority shall process all applications and determine who is a qualified borrower under this chapter.

(e) When the application for an insured loan has been approved by the authority, the director of finance shall issue to the lender a guarantee for that percentage of the loan on which it guarantees payment of principal and interest. The private lender shall collect all payments from the borrower and otherwise service the loan.

(f) In return for the director of finance's guarantee, the private lender shall remit out of interest collected an insurance fee as may be established by the director of finance, provided that this fee shall not be added to any amount which the borrower is obligated to pay.

(g) When any installment of principal and interest has been due for sixty days and has not been paid by the borrower, the director of finance shall issue, on request of the private lender, a check for the percentage of the overdue payment guaranteed, thereby acquiring a division of interest in the collateral pledged by the borrower in proportion to the amount of the payment. The director of finance shall be reimbursed for any amounts so paid plus the applicable interest rate, where payment is collected from the borrower.

(h) If there is any default in any payment to be made by the borrower, the lender shall notify the director of finance within fifteen days. Should the lender deem that foreclosure proceedings are necessary to collect moneys due from the borrower, it shall so notify the director of finance. Within thirty days of either notification, the director of finance may elect to request an assignment of the loan on payment in full to the lender of the principal balance and interest due. Foreclosure proceedings shall be held in abeyance in the interim.

(i) Every qualified borrower who is granted a loan under this section shall comply with the following conditions:

- (1) Extend no portion of his loan for purposes other than those sanctioned by the authority;
- (2) Not sell or otherwise dispose of the mortgaged property except upon the prior written consent of the director of finance, and except upon such conditions as may be prescribed in writing by the private lender;
- (3) Undertake to pay when due all taxes, liens, judgments, or assessments which may be lawfully assessed against the property mortgaged, together with cost and expense of any foreclosure of such mortgage;
- (4) Keep insured to the satisfaction of the private lender all improvements and other insurable property covered by the mortgage. Insurance shall be made payable to the mortgagee as its interest may appear at the time of the loss. At the option of the private lender, subject to the regulations and standards of the authority, sums so received may be used to pay for reconstruction of the improvements destroyed, or for decreasing the amount of the indebtedness;
- (5) Keep the improvements in good repair;
- (6) All of the above conditions shall be held and construed to be a provision of any mortgage executed by virtue of this section whether appearing as a provision of the mortgage or not; and
- (7) The private lender may impose such other conditions in its mortgage, provided the form of such mortgage has the prior approval of the authority.

(j) Loans guaranteed and made under this section shall be repaid in accordance with a payment schedule specified by the private lender with payments applied first to interest and then to principal. Additional payments in any sums, the payment of the entire principal, may be made at any time within the time period of the loan. The private lender may for satisfactory cause and at its discretion extend the time within which the installments of principal may be made for a period not to exceed two years.

(k) There is created a special fund to be known as 'State mortgage guarantee fund'. All interest and fees collected under this section by the director of finance and the Hawaii housing authority shall be deposited into this fund. The purpose of the fund is to guarantee payment of loans made under this section and to carry on the operations of the director of finance and the authority in administering and granting loans under this section. All disbursements from

the State mortgage guarantee fund shall be paid out on warrants signed by the director of finance.

Sec. 359A-13. Labor, training of. In the development and construction of dwelling units, the authority may provide for an on-the-job training program or such other projects as it may deem justifiable including innovative projects for the purpose of developing a larger qualified work force in the State. For this purpose, the authority may expend such sums as it deems appropriate but not to exceed \$100,000 a year.

Sec. 359A-14. Materials and research. The authority may purchase materials for the development of land and the construction of dwelling units in the manner it shall conclude to be most conducive to lower costs including purchase from other states or from foreign countries for drop shipment in the State or on cost-plus contracts for such materials with persons or firms doing business in the State, or otherwise. The authority may expend not more than \$100,000 a year for the development of innovative techniques and research.

Sec. 359A-15. Exemption from general excise tax. Notwithstanding any other law to the contrary, all rents and proceeds received from housing or housing projects developed pursuant to this chapter shall be exempt from general excise or receipts taxes. A claim for such exemption shall be filed with the director of taxation pursuant to rules and regulations promulgated by the director of taxation.

Sec. 359A-16. Downpayment loans. The authority may make direct loans to a qualified borrower for the downpayment required by a private lender to be made by the borrower as a condition of obtaining a loan from the private lender in the purchase of a residential property. The downpayment loan to any borrower shall not exceed thirty per cent of the purchase price of the residential property or \$15,000, whichever is lower. No more than one downpayment loan shall be made for a single residential property and to a single borrower. The repayment of every downpayment loan shall be secured by a duly recorded second mortgage executed by the borrower to the State on the residential property purchased with the downpayment loan. The downpayment loans shall bear simple interest of not less than one per cent more, rounded to the nearest one-eighth of one per cent, than that required to be paid by the State on the general obligation bonds issued for the downpayment loan fund.

The principal of the downpayment loan, together with accrued interest, shall be repaid by the borrower in such installments as determined by the authority over a period not exceeding forty years. The period over which the principal and interest shall be paid need not coincide with the period over which the loan from the private lender for the balance of the purchase price must be repaid. The borrower may repay the whole or any part of the unpaid balance of the downpayment loan, plus accrued interest, at any time without penalty.

The authority may secure the services of the private lender who loans to the borrower the balance of the purchase price of the residential property or the services of any other private lender doing business in the State to collect, in behalf of the State, the principal and interest of the downpayment loan and

otherwise to service the downpayment loan, for a servicing fee of not more than one-half of one per cent of the amount of the downpayment loan. For this purpose, the authority may assign the second mortgage held by it to secure the repayment of the downpayment loan to such private lender.

Sec. 359A-17. Qualifications for downpayment loan. (a) No person shall be qualified for a downpayment loan, unless he:

- (1) Is a citizen of the United States or a declarant alien who has resided in the State for a period of five years or more;
- (2) Is at least twenty years of age;
- (3) Is a bona fide resident of the State of one year or more;
- (4) Has a bona fide intent to reside in the residential property to be purchased;
- (5) Is accepted by a private lender as a person to whom it is willing to lend money for the purchase of the residential property provided the required downpayment is made; and
- (6) Has the financial capacity to repay the downpayment loan.

(b) No person who owns in fee simple or in leasehold any other residential property within the State, or who has a loan made under this part shall be eligible to become a borrower under this part. A person shall be deemed to own a residential property if he, his spouse or both he and his spouse (unless separated and living apart under a decree of a court of competent jurisdiction) owns such residential property.

Sec. 359A-18. Restrictions on borrower. Every loan made under this part shall be subject to the following conditions:

- (a) The borrower shall expend no portion of his downpayment loan for purposes other than to make a downpayment for the purchase of a residential property.
- (b) The residential property purchased with the downpayment loan and mortgaged to the State to secure the repayment of the loan shall not be sold or assigned without the prior approval in writing of the authority and the private lender.
- (c) The borrower shall pay when due all taxes, liens, judgments, or assessments which may be lawfully levied against the residential property and all costs and expenses of any foreclosure of the mortgage made to the State.
- (d) The borrower shall maintain fire and casualty insurance in such amounts equal to the replacement value of all improvements and insurable portions of the residential property with such insurance company authorized to do business in the State. All proceeds of such insurance shall be made payable to the private lender and the authority as their respective interests may appear at the time of any loss or dam-

age. Subject to the rules and regulations of the authority, in the event of any loss or damage to the improvements or property covered by such insurance, the proceeds receivable by the State shall be applied toward the reconstruction of the improvements or property destroyed or damaged, unless otherwise determined by the authority.

(e) The borrower shall maintain the improvements in good repair.

All of the above conditions shall be deemed to be a part of any downpayment mortgage executed under this part, regardless of whether or not they are expressly incorporated in the mortgage document.

Sec. 359A-19. Default. If the borrower defaults in the payment of any installment of principal or interest of the downpayment loan, the authority shall take all necessary action to collect the delinquent amounts and may, on behalf of the State, take all actions generally allowed holders of mortgages, including the power to foreclose. Upon any foreclosure of the second mortgage, the authority may, on behalf of the State, purchase the interest of the borrower in and to the residential property, take possession thereof and assume all of the obligations of the borrower under the first mortgage held by the private lender and such other liens having priority over the second mortgage as may then exist. On such acquisition of the borrower's interest, the authority may, at its option, pay in full the unpaid balance of the borrower's obligation secured by the first mortgage and other prior liens, repair, renovate, modernize, or improve the residential property, and, with or without clearing the property of all prior mortgages and lien, sell, lease, or rent the property or use or dispose of the same in any manner that the authority is authorized to do so by law.

Sec. 359A-20. Downpayment fund. A downpayment fund is hereby created. When requested by the authority, the director of finance shall issue from time to time general obligation bonds not exceeding \$20,000,000, the proceeds of which shall be deposited into the downpayment fund and which shall be used for the purpose of making downpayment loans as provided herein.

All moneys received or collected by the authority to repay downpayment loans shall be deposited into the downpayment fund. The proceeds of the fund shall first be used to pay the principal and interest on the bonds issued for the purposes of this program, then for the necessary expenses in administering this program, and finally for making downpayment loans.

Sec. 359A-21. Participation in loans. The authority may provide funds for a share, not to exceed fifty percent, of the principal amount of a loan made to a qualified borrower by a private lender who is unable otherwise to lend the borrower sufficient funds at reasonable rates in the purchase of a residential property; provided, that at no time shall the State's total outstanding share exceed the sum of \$10,000,000.

Sec. 359A-22. Loans qualifying for participation loans. Except as otherwise provided, the requirements for a loan to qualify under this part shall be the same as those prescribed for loans qualifying for mortgage loan guarantee under sec. 359A-12. The State's share of any loan shall bear interest at the rate

of not less than one percent more, rounded to the nearest one-eighth of one percent, than that required to be paid by the State on the general obligation bonds issued for the participation loan fund. The private lender's share of the loan shall bear interest at a rate not more than one and one-half percent higher than the interest on the State's share. The first mortgage document shall be held by the private lender. Division of interest in the collateral shall be in proportion to the participation of the State and the private lender.

Sec. 359A-23. Qualification of borrowers. (a) The authority shall not participate in any loan, unless the borrower to whom the private lender is willing to make the loan:

- (1) Is a citizen of the United States or a declarant alien who has resided in the State for a period of five years or more;
- (2) Is at least twenty years of age;
- (3) Is a bona fide resident of the State of one year or more;
- (4) Has a bona fide intent to reside in the residential property to be purchased;
- (5) Has the ability to repay the loan; and
- (6) Has a gross income of not more than \$20,000 per annum (the gross income of the borrower's spouse, if the borrower is married, shall be counted, except where the borrower is living separate and apart from his spouse under a decree of a court of competent jurisdiction) or is 55 years of age or more, or is a person displaced by government action other than eviction due to his fault.

(b) No person who owns in fee simple or in leasehold any other residential property within the State, or who has a loan made under this program shall be eligible to become a qualified borrower. A person shall be deemed to own a residential property if he, his spouse or both he and his spouse (unless separated and living apart under a decree of a court of competent jurisdiction) owns such residential property.

Sec. 359A-24. Application and review of application. (a) All applications for participation loans shall be made on such form prescribed by the authority. It shall be signed both by the borrower and the lender. The application shall contain a description of the residential property to be purchased, the purchase price, and the amount of the downpayment to be made by the borrower. It shall contain a statement of the private lender indicating the portion of the total loan it is able to meet. The application shall be processed by the private lender and forwarded to the authority.

(b) The authority shall review all applications and determine the State's share of the loan, provided that it shall approve for State participation only those loans to be made to persons who qualify under the provisions of sec. 359A-23 and the rules and regulations of the authority promulgated pursuant to chapter 91. The authority may insure the private lender's share of the loan as provided in section 359A-12 of this Act.

(c) When an application for a mortgage insurance loan has been approved by the authority, the State's share shall be paid to the private lender for disbursement to the borrower. The private lender shall collect all payments from the borrower and otherwise service the loan.

Sec. 359A-25. Service fee. Out of interest collected for the State, the private lender may deduct a service fee of one-half of one percent of the unpaid principal balance of the State's portion of the loan as fee for servicing the State's portion of the loan; provided, that this fee shall not be added to any amount which the borrower is obligated to pay.

Sec. 359A-26. Private lender take-over. The private lender may, with the approval of the authority, take over a larger percentage or the full principal balance of the loan at any time that it has determined, to the satisfaction of the authority, that the borrower is able to pay any increased interest charges resulting.

Sec. 359A-27. Default. When the private lender or the authority deems that foreclosure proceedings are necessary to collect moneys due from the borrower, it shall notify the other and the proceeding shall be promptly initiated by the private lender, unless the authority elects to request an assignment of the loan. Within thirty days of the notification by either the private lender or the authority to the other, the authority may request an assignment of the loan on payment in full of the private lender's share of the principal balance due. Foreclosure proceedings shall be held in abeyance in the interim.

Sec. 359A-28. Restrictions on borrower. Every loan made under this part shall be subject to the following conditions:

- (a) The borrower shall expend no portion of the loan for purposes other than to purchase a residential property.
- (b) The residential property purchased with the loan and mortgaged to the private lender to secure the repayment of the loan shall not be sold or assigned without the prior written approval of the authority and the private lender.
- (c) The borrower shall pay when due all taxes, liens, judgments, or assessments which may be lawfully levied against the residential property and all costs and expenses of any foreclosure of the mortgage brought by the private lender.
- (d) The borrower shall maintain fire and casualty insurance in such amounts equal to the replacement value[of]all improvements and insurable portions of the residential property with such insurance company authorized to do business in the State. All proceeds of such insurance shall be made payable to the authority and the private lender as their respective interests may appear at the time of any loss or damage. Subject to the rules and regulations of the authority, in the event of any loss or damage to the improvement or property covered by such insurance, the proceeds received by the authority and the private

lender shall be applied toward the reconstruction of the improvement or property destroyed or damaged.

- (e) The borrower shall maintain the improvements on the residential property in good repair.

All of the above conditions shall be deemed to be a part of any mortgage executed by the borrower to the private lender, regardless of whether or not they are expressly incorporated in the mortgage document. The private lender may impose other conditions in its mortgage, provided that the form of the mortgage has the prior approval of the authority.

Sec. 359A-29. Participation loan fund. A participation loan fund is hereby created. When requested by the authority, the director of finance shall issue general obligation bonds not exceeding \$10,000,000, the proceeds of which shall be deposited into this fund for the purposes of this part.

All income received by the State on the investment of State funds under this program shall be dedicated to this fund. Such income and all moneys received or collected by the authority under this program shall be deposited into the fund. The proceeds in the fund shall first be used to pay the principal and interest of the bonds issued and thereafter for the purposes of this program."

SECTION 2. Chapter 356, Hawaii Revised Statutes, as amended, is further amended as follows:

(1) By adding a new section to be appropriately designated and to read as follows:

"Sec. 356- . Notwithstanding the interest rate limitation contained in section 356-29, Hawaii Revised Statutes, and during the twelve months following the date of approval of this Act, bonds issued by the Hawaii housing authority under chapter 356 of said statutes, may bear interest, payable annually or semi-annually, at a rate not exceeding eight percent a year."

(2) By amending the last sentence of the first paragraph of section 356-5 to read as follows:

"The special assistant for housing appointed pursuant to chapter 359-A shall be an additional ex officio voting member of the housing authority and ex officio chairman thereof."

(3) By amending the last paragraph of section 356-5 to delete the first sentence thereof and to add a new sentence to the end thereof to read as follows:

"The staff provided under chapter 359-A shall be in addition to any staff provided for in this chapter."

SECTION 3. Chapter 359, Hawaii Revised Statutes, as amended, is further amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 359- . Notwithstanding the interest rate limitation contained in section 359-79, Hawaii Revised Statutes, and during the twelve months following the date of approval of this Act, bonds issued by the Hawaii housing au-

thority under chapter 359 of said statutes, may bear interest, payable annually or semi-annually, at a rate not exceeding eight percent a year.”

SECTION 4. Section 26-4(10), Hawaii Revised Statutes, is amended to read as follows:

“(10) Department of social services and housing (Section 26-14).”

SECTION 5. The Hawaii Revised Statutes, as amended, are hereby further amended by amending the words “department of social services” to read “department of social services and housing” wherever the same appear therein.

SECTION 6. Appropriation. The sum of \$300,000, or so much thereof as may be necessary, is appropriated for the purposes of this Act.

SECTION 7. Severability. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end, the provisions of this Act are severable.

SECTION 8. Effective Date. This Act shall take effect upon its approval.
(Approved June 19, 1970.)

ACT 106

H. B. NO. 1274-70

A Bill for an Act Making an Appropriation for the Housing Development Fund.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000, or so much thereof as may be necessary for the Hawaii development revolving fund for housing in accordance with section 359-151, Hawaii Revised Statutes.

SECTION 2. The sum appropriated shall be expended by the Hawaii housing authority for the purposes of this Act.

SECTION 3. This Act shall take effect upon its approval.
(Approved June 19, 1970.)

ACT 107

S. B. NO. 1140-70

A Bill for an Act Relating to the Hawaii Housing Authority.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 356-20.1, Hawaii Revised Statutes, as amended, is further amended to read as follows:

“**Section 356-20.1 Housing for the elderly.** Notwithstanding any statute or ordinance to the contrary, multi-story housing projects for the elderly shall be developed only on land which is either zoned or designated for apartment or business use on the general plans and/or detailed land use plan of the respective county wherein the land to be utilized for such projects are located and

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shall be exempt from all county zoning ordinances and zoning codes and restrictions therein, including, but not limited to, building height restrictions, floor area ratio formulas, open space, living space, loading space, recreational space, and land use intensity requirements. The director shall before approving such a project hold a public hearing pursuant to chapter 91."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 19, 1970.)

ACT 108

S. B. NO. 1153-70

A Bill for an Act Relating to Experimental and Demonstration Housing Projects.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Section 46- . Experimental and demonstration housing projects. (a) The mayor of each county with the approval of the respective council shall be empowered to designate areas of land for experimental and demonstration housing projects, the purposes of which are to research and develop ideas that would reduce the cost of housing in the State. Except as hereinafter provided, the experimental and demonstration housing projects shall be exempt from all statutes, ordinances, charter provisions and rules or regulations of any governmental agency or public utility relating to the zoning and construction standards for the subdivision, development and improvement of land and the construction and sale of homes thereon; provided that the experimental and demonstration housing projects shall not affect the safety standards or tariffs approved by the public utility commissions for such public utility. The mayor of each county with the approval of the respective council may designate a county agency or official who shall have the power to review all plans and specifications for the subdivision, development and improvement of the land involved and the construction and sale of homes thereon. The county agency or official shall have the power to approve or disapprove or to make modifications to all or any portion of the plans and specifications. The final plans and specifications for the project approved by the county agency or official, upon subsequent approval by the respective council, shall constitute the standards for that particular project. No action shall be prosecuted or maintained against any county, its officials or employees, on account of actions taken by them in reviewing, approving or disapproving such plans and specifications.

Any experimental or demonstration housing project for the purposes hereinabove mentioned may be sponsored by any State or county agency or any person as defined in section 1-19.

The county agency or official shall apply to the State land use commis-

* Edited accordingly

sion for an appropriate land use district classification change, except where a proposed project is located on land within or contiguous to the urban district established by the State land use commission. Notwithstanding any law, rule or regulation to the contrary, the State land use commission may approve the application at any time after a public hearing held in the county where the land is located upon notice of the time and place of the hearing being published in the same manner as the notice required for a public hearing by the planning commission of the appropriate county.

(b) The experimental and demonstration homes may be sold to the public under terms and conditions approved by the county agency or official who has been designated to review the plans and specifications.

(c) The county agency or official may adopt and promulgate rules and regulations which are necessary or desirable to carry out the purposes of this section."

SECTION 2. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provisions or applications, and to this end the provisions of this Act are severable.

SECTION 3. This Act shall take effect upon its approval.
(Approved June 19, 1970.)

ACT 109

S. B. NO. 1626-70

A Bill for an Act Relating to Leases to Certain Developers of Low and Moderate Income Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 171-84, Hawaii Revised Statutes, is amended to read as follows:

"Section 171-84. Leases to certain developers of housing for low and moderate income families. Sections 171-73 to 171-76, or any other law to the contrary notwithstanding, residential public lands may be leased on a first priority basis, without a drawing or public auction, by the board of land and natural resources to a developer or mortgagor who qualifies under the federal housing programs for low and moderate income families under the National Housing Act or State housing program for low and moderate income families as approved by the board of land and natural resources, or to a nonprofit or limited distribution corporation or association as defined in section 221(d) (3) of the National Housing Act which conforms to the standards of section 221(d) (3) but which is not a mortgagor under section 221(d) (3), all of which are regulated or supervised under federal or State laws or by political subdivisions of the State, or agencies thereof, as to rents, charges, sales prices, capital structure, rate of return, and methods of operation from the time of issuance of the building permit for the project. The lease under this section shall include terms to meet federal housing administration requirements, if any, and the annual

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rental of the premises shall not exceed \$1 a year to the lessee. The subleasing of individual lots will be allowed with lessee retaining first right of purchase for resale to a qualified low and moderate income family in conformance with the board of land and natural resources requirements."

SECTION 3. This Act shall take effect upon its approval.

(Approved June 19, 1970.)

ACT 110

S. B. NO. 1910-70

A Bill for an Act Making an Appropriation for the Development of State Lands for Houselot Purposes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated or authorized, as the case may be, out of the general revenues or the general obligation bond fund of the State of Hawaii, the following sums, or so much thereof as may be necessary, for the following projects for the development of State lands for houselot purposes. General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance the projects contained herein, provided that the sum total of the general fund revenues used and general obligation bonds issued shall not exceed \$5,679,000.

Oahu

1. Waimanalo, Koolaupoko, Houselots—Plans and construction of subdivision improvements including roads, water mains, sewer lines, curb, gutter, sidewalks, electrical system and flood channel improvements. 1,145,000
2. Lahikina, Punchbowl area, Oahu—Plans for development of multi-family dwelling units. 100,000

Hawaii

3. Kealakehe, North Kona, Houselots—Plans and construction of subdivision improvements including roads, water mains, curb, gutter, sidewalk and related facilities. 700,000
4. University Heights, South Hilo, Houselots—Plans and construction for the incremental development of subdivision improvements including roads, water mains, drainage, curb, gutter, sidewalk and related facilities. Houselot developments in Hamakua and Waiakea may be substituted for this project. Unexpended balances for this project may also be used for houselot developments in Hamakua and Waiakea. 600,000
5. Waiakea, South Hilo, Houselots—Plans and construction of subdivision improvement including roads, water mains, curb, gutter, sidewalks, drainage and related facilities. 300,000
6. Puna, Hawaii, Houselots—Plans and construction for houselot developments in Puna area, including related facilities. 200,000

Maui

7. Wakiu, Hana, Houselots—Plans and construction for the incremental development of subdivision improvements includ- 204,000

ing roads, water mains, electrical system, and other related facilities.

- | | |
|---|-----------|
| 8. Waikeolu, Lahaina, House lots—Plans and construction for the incremental development of subdivision improvements including roads, water mains, sewer lines, curb, gutter, sidewalk and other related facilities. | 1,000,000 |
|---|-----------|

Kauai

- | | |
|---|---------|
| 9. Waimea Heights, Waimea, House lots—Plans and construction of subdivision improvements including roads, water mains, pump, storage tank and other related facilities. | 450,000 |
| 10. Hanapepe, Waimea, House lots—Plans and construction of subdivision improvements including roads, water mains, pump, storage tank and other related facilities. | 480,000 |
| 11. Lihue-Kawaihau House lots—Plans and construction of subdivision improvements, including roads, water mains, pump, storage tank and other related facilities. | 300,000 |
| 12. Wailua House lots, Kauai—Plans and construction for development of State lands into house lots. | 200,000 |

SECTION 2. In view of the necessity to expedite completion of the various projects in this Act, the governor is authorized to allot the necessary funds provided by this Act, as well as in prior Acts, and to initiate their planning and construction without limitation.

SECTION 3. The sums appropriated shall be expended by the department of land and natural resources for the purpose of this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 19, 1970.)

ACT 111

H. B. NO. 1773-70

A Bill for an Act Relating to Factory Built Housing.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Whenever used in this Act:

- (1) "Department" means the Hawaii State Department of Labor and Industrial Relations;
- (2) "Approved" means approved by the department;
- (3) "Factory built housing" means any structure designed primarily for residential occupancy by human beings, the structure of any room of which is either entirely or substantially prefabricated or assembled at a place other than the building site;
- (4) "Install" means the assembly of factory built housing at a building site;
- (5) "Building site" means any tract, parcel or subdivision of land upon which factory built housing is installed or is to be installed;

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- (6) "Local enforcement agency" means any agency of the governing body of any city or county which enforces laws or ordinances governing the construction of buildings.

SECTION 2. No factory built housing shall be installed on a building site in this state after the effective date of the regulations adopted pursuant to section 7 of this Act unless it is approved and bears the insignia of approval of the department.

(1) Any factory built housing bearing an insignia of approval of the department shall be deemed to comply with any laws, ordinances or regulations enacted by any city or county or any local enforcement agency which govern the manufacture and construction of factory built or on-site housing.

(2) No factory built housing which has been approved by the department shall be in any way modified prior to or during installation by a manufacturer or installer unless approval of such modification is first made by the department.

SECTION 3. Local land use requirements, building setbacks, side, front, and rear yard requirements, site development and property line requirements, and review and regulation of zoning requirements are specifically reserved to local jurisdictions notwithstanding anything contained in this Act.

SECTION 4. The department may obtain from a circuit court having jurisdiction, a temporary injunction enjoining the installation of factory built housing on any building site upon affidavit of the department that such factory built housing does not conform to the requirements of this Act or to the rules adopted pursuant to this Act. The affidavit must set forth such violations in detail. The injunction may be made permanent, in the discretion of the court.

SECTION 5. The department shall have the authority to delegate all or part of its duties of inspection to a local enforcement agency.

SECTION 6. The governor shall appoint a factory-built housing advisory board consisting of eleven members. Members appointed shall be broadly representative of the industries and professions involved in the development and construction of factory-built housing and shall include representation from building code enforcement agencies, architectural and engineering associations, building construction trades, the contracting and manufacturing industries, legislative bodies of local government and the general public. The factory-built housing advisory board shall periodically review the rules promulgated under this Act and shall recommend changes of such rules to the department when it deems changes advisable. Members shall receive a compensatory per diem of twenty-five dollars for each day or portion thereof actually spent in attending upon the duties of the board, and in addition thereto, shall be entitled to reimbursement for travel expenses as provided in section 78-15, Hawaii Revised Statutes, as now or hereafter amended.

SECTION 7. The department shall prescribe and enforce rules and regulations which protect the health, safety, and property of the people of this state by assuring that all factory built housing is structurally sound and that the

plumbing, heating, electrical, and other components thereof are reasonably safe. Such rules and regulations shall be reasonably consistent with recognized and accepted principles of safety and structural soundness and in promulgating such rules and regulations the department shall consider, so far as practicable, the standards and specifications contained in: The uniform building code (1967), published by the international conference of building officials; the uniform plumbing code (1967), published by the international association of plumbing and mechanical officials; the uniform mechanical code (1967), published by the international conference of building officials and the international association of plumbing and mechanical officials; and the national electrical code (1968), published by the national fire protection association. Updated issues of these codes and amendments to such codes shall be considered by the department.

The department shall set a schedule of fees which will cover the costs incurred by the department in the administration and enforcement of this act.

SECTION 8. If the director of the department determines that the standards for construction and inspection of factory built housing prescribed by statute, rule or regulation of another state are at least equal to the regulations prescribed under this act, and that such standards are actually enforced by such other state, he may provide by regulation that factory built housing which has been inspected and approved by such other state shall be deemed to have been approved by the department.

SECTION 9. Any person who violates any of the provisions of this act or any rules or regulations adopted pursuant to this Act is guilty of a misdemeanor, punishable by a fine not exceeding five hundred dollars or by imprisonment not exceeding thirty days, or by both such fine and imprisonment.

SECTION 10. This Act shall take effect upon its approval.

(Approved June 19, 1970.)

ACT 112

H. B. NO. 1922-70

A Bill for an Act Relating to Cable Television Systems.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes are amended by adding a new chapter to be appropriately numbered and to read as follows:

“CHAPTER

CABLE TELEVISION SYSTEMS

Sec. -1. Short title. This chapter shall be known as the Hawaii Cable Television Systems Law.

Sec. -2. Findings. The legislature finds that rapid and orderly expansion of cable television systems would be of great benefit to people throughout the State of Hawaii. Because the need for the further development of cable television service in Hawaii is so pressing, the legislature finds that regulatory power

over cable television companies should be vested in the director of regulatory agencies. The legislature, however, shall study further the issue of whether the eventual regulatory body should be the public utilities commission or some other commission.

Sec. -3. Definitions. As used in this chapter, unless the context clearly requires otherwise:

- (1) "CATV" means either community antenna television or cable television.
- (2) "Community antenna television system company" or "cable television company" or "CATV company" or "CATV operator" means any person who owns, controls, operates, or manages a cable television system, but excluding (A) a telephone or other utility, regulated by the public utilities commission, in a case where it merely leases or rents facilities for the redistribution of television signals to or toward subscribers of a CATV company, or (B) a telephone or other utility, regulated by the public utilities commission, in a case where it provides communication channel service under published tariffs filed with the public utilities commission or the Federal Communications Commission.
- (3) "Community antenna television system" or "cable television system" or "CATV system" means any facility within this State, the primary function of which is either to receive and amplify the broadcast signals of one or more television and radio stations or to provide signals for additional closed circuit programming, and to redistribute such signals to members of the public who subscribe thereto or to whom redistribution of such signals is required by this chapter, by means of wires, cables, conduits, or any other devices which are above, below, on, in, or along any highway or other public place, but excluding (A) any nonprofit community antenna television system which serves fewer than one hundred subscribers, or (B) any system which serves, by means of a roof-top antenna and an internal cable distribution system, only the residents of one or more apartment dwellings or hotels under common ownership, control, or management, and commercial establishments located on the premises of such dwellings.
- (4) "Department" means the department of regulatory agencies.
- (5) "Director" means the director of regulatory agencies.
- (6) "Public utilities commission" means the public utilities commission of this State.
- (7) "CATV permit" means a nonexclusive permit issued pursuant to this chapter authorizing operation of a CATV system, including the right to use public rights of way.
- (8) "Facility" includes all real property, antenna, poles, supporting structures, wires, cables, conduits, amplifiers, instruments, appliances, fix-

tures, and other personal property used by a CATV company in providing service to its subscribers.

- (9) "Highway" includes every street, road, alley, thoroughfare, way, or place of any kind used by the public, or open for the use of the public as a matter of convenience and right.
- (10) "Permittee" means a person who is issued a CATV permit pursuant to this chapter.
- (11) "Public place" or "public places" includes any property, building, structure, or water to which the public has a right of access and use.
- (12) "Service area" is the geographic area in which a CATV company has facilities by means of which it can offer its services to the public and has been issued a permit to do so.
- (13) "CATV advisory committee" or "committee" means the CATV advisory committee established pursuant to this chapter.

Sec. -4. Issuance of CATV permits and regulation of CATV companies by director of regulatory agencies. The director of regulatory agencies shall be empowered to issue CATV permits, and otherwise administer and enforce this chapter.

Sec. -5. CATV permit required; exception. No person shall construct, operate, or acquire a CATV system, or extend an existing CATV system outside its designated service area, without first obtaining a CATV permit as provided in this chapter; except that, notwithstanding any other section of this chapter, CATV permits shall be issued by the director, for those service areas in which facilities had been placed on or before June 1, 1969, to each CATV company which was operating a CATV system, or which had erected a head-end antenna for distribution of a television signal by means of a coaxial cable, on or before June 1, 1969, if application for the permit is filed with the director within ninety days after the effective date of this Act; provided that, pending the issuance of the CATV permit, any existing CATV system may (a) continue to operate within the area served on the effective date of this Act, and (b) when in the discretion of the director of regulatory agencies the public interest would be served, continue construction of its facilities within areas approved by the director.

Sec. -6. Application for CATV permit; fee; certain requirements. (a) No CATV permit or renewal of a CATV permit shall be issued except upon written application therefor to the director, accompanied by a fee of \$100, and on an application form to be prescribed by the director. The form shall set forth such facts as the director may prescribe as to the citizenship, character, and financial, technical, and other qualifications of the person seeking to operate the CATV system, and complete information as to the principals and ultimate beneficial owners (including in the case of a corporation, all stockholders both nominal and beneficial, owning ten per cent or more of the issued and outstanding stock, and in the case of unincorporated associations, all members

and ultimate beneficial owners, however designated) and such other information as the director deems appropriate or necessary. The application shall be signed by the applicant whose relationship with the proposed permittee shall be as prescribed by regulation of the director, or by a duly authorized person, evidence of whose authority shall be submitted with the application. Each applicant shall make full disclosure as to the true ownership of the facilities to be employed in rendering service, as to the source of funds for the purchase, lease, rental, and installation of such facilities, except as to the source of funds for the purchase and installation of facilities to be provided by a public utility, and as to his ability to extend service at a reasonable cost to the potential subscribers in the proposed service area. Each application shall set forth the rates to be charged, the services to be offered, the facilities to be employed, the general routes of the wires, cables, conduits, or other devices used in the redistribution of signals, the service area or areas, the commencement and completion dates of construction of the CATV system, and the proposed date service will be available to the areas named.

(b) The application shall require that, in the event a CATV permit is issued, the applicant agrees to the following:

- (1) In installing, operating, and maintaining facilities, it will avoid all unnecessary damage and injury to any trees, structures, and improvements in and along the routes authorized by the director.
- (2) It will indemnify and hold the State and the county harmless at all times from any and all claims for injury and damage to persons or property, both real and personal, caused by the installation, operation, or maintenance of the permittee's CATV system. Upon receipt of notice in writing from the State or county it will, at its own expense, defend any action or proceeding against the State or county in which it is claimed that personal injury or property damage was caused by activities of the permittee in the installation, operation, or maintenance of its CATV system.
- (3) It will provide a cable drop at reduced rates or at no cost to any school or any institution of higher education within the service area authorized by the CATV permit; provided that service is actually being delivered in the areas adjacent to the school.
- (4) Upon termination of the period of the CATV permit or of any renewal thereof, by passage of time or otherwise, it will remove its facilities from the highways and other public places in, on, over, under, or along which they are installed if so ordered by the director and will restore the areas to their original condition, or otherwise dispose of same. If such removal is not completed within six months of the termination, any property not removed shall be deemed to have been abandoned and the permittee will be liable for the cost of its removal.
- (5) Before commencing construction of an increment of a CATV system, the applicant or, in the case of a leased facility, the lessor, other than a public utility, will submit to the director a performance bond, with

corporate surety satisfactory to the director. The penal amount of the bond shall be not less than fifty per cent of the cost of construction. The conditions of the bond shall be the satisfactory completion of installation of the CATV system in accordance with the schedule of installation proposed in the application.

Sec. -7. Public hearing; notice. Upon the filing of an application and the payment of the fee prescribed, the director within sixty days shall fix the time and place for a hearing thereon and shall cause notice thereof to be given to the governing council of the county and to any telephone or other utility and CATV company in the county in which the proposed service area is located. The director shall also cause notice of the application and hearing to be published twice, not less than one week apart and at least one week prior to the hearing, in some newspaper of general circulation in the county in which the proposed service area is located.

Sec. -8. Issuance of CATV permit authority; criteria; content. (a) The director is empowered to issue a CATV permit to construct and operate facilities for a CATV system upon the terms and conditions provided in this chapter; provided that in the construction and operation of facilities for a CATV system:

- (1) The use of all highways and other public places shall be subject to all applicable state statutes which heretofore or hereafter may be adopted and to all applicable regulations of the public utilities commission which heretofore or hereafter may be adopted governing the construction and maintenance of overhead and underground facilities of public utilities;
- (2) The use of all highways and other public places which are county highways within the meaning of section 264-1 shall be subject to all public welfare regulations which heretofore or hereafter may be adopted by the governing body of the county within which the county highways are situated;
- (3) The use of all highways and other public places which are state or federal-aid highways within the meaning of section 264-1 shall be subject to all public welfare regulations which heretofore or hereafter may be adopted by the director of the department of transportation; and
- (4) The provisions of section 264-33 concerning the allocation of expenses for the relocation of utility facilities shall apply to the allocation of expenses for the relocation of CATV facilities.

(b) The director, after a public hearing as provided in this chapter, shall issue a CATV permit to the applicant when he is convinced that it is in the public interest to do so. In determining whether a CATV permit shall be issued, the director shall take into consideration, among other things, the public need for the proposed service or acquisition, the ability of the applicant to offer service at a reasonable cost to the subscribers, the suitability of the applicant, the financial responsibility of the applicant, the ability of the applicant to perform

efficiently the service for which authority is requested, and any objections arising from the public hearing, the CATV advisory committee, or elsewhere.

(c) In determining the area which is to be serviced by the CATV company, the director shall take into account the geography and topography of the proposed service area, and both the present operations and the planned and potential expansion of the applicant's and other CATV companies.

(d) In issuing a CATV permit under this chapter, the director is not restricted to approving or disapproving the application but may issue it for only partial exercise of the privilege sought or may attach to the exercise of the right granted by the CATV permit such terms, limitations, and conditions which he deems the public interest may require. The CATV permit shall be nonexclusive, shall include a description of the service area in which the CATV system is to be constructed, extended, operated, or acquired and the approximate date on which the service is to commence and shall authorize the CATV company to provide service for a term of twenty years.

Sec. -9. Complaints, revocation, alteration, or suspension of permits.

Any complaint by any person as to the operation of a CATV system shall be filed in writing with the director. Any permit issued hereunder may after hearing in accordance with chapter 91 be revoked, altered, or suspended by the director as he deems necessary on any of the following grounds:

- (1) For wilful false or misleading statements in, or material omissions from, any application;
- (2) For failure to file and maintain a bond under section -6;
- (3) For repeated failure, as determined by the director, to maintain signal quality under the standards prescribed by the director;
- (4) For any sale, lease, assignment, or other transfer of its permit without consent of the director;
- (5) For an inability to provide CATV service at reasonable cost to the service area;
- (6) For violation of the terms of its permit; and
- (7) For failure to comply with this chapter or any regulation prescribed by the director.

Sec. -10. Renewal of CATV permits; transfer. Any CATV permit issued pursuant to this chapter may be renewed, after a hearing as prescribed in section -7 and upon payment of the fee and compliance with the requirements prescribed in section -6, for additional periods of not less than ten nor more than twenty years each. No CATV permit may be assigned, sold, leased, encumbered, or otherwise transferred without the prior written consent of the director. Such consent shall be given only upon a written application therefor on forms to be prescribed by the director. The forms shall require from both the transferor and the proposed transferee substantially the same information as required by section -6. The application shall also contain information concerning the consideration to be paid and such other matters as the director may

deem appropriate or necessary, and shall be signed by both the transferor and the proposed transferee.

Sec. -11. Rate, filed with director; approval. The director shall require each CATV company to submit a schedule of its rates and all terms and conditions of service in such form and on such notice as the director may prescribe. The duty of the director shall be to maintain surveillance over such filed rates and terms and conditions of service to insure that the rates and terms and conditions of service are fair both to the public and to the CATV company, taking into account the geographic, topographic, and economic characteristics of the service area and the economics of providing CATV service to subscribers in the service area.

Any disagreement between the director and a CATV company over its filed schedule or rates shall be resolved by the director after a hearing has been held to afford the CATV company an opportunity to explain the basis of its filed schedule of rates. After a hearing, the director shall make a determination which is final and conclusive subject only to any rights of appeal as may be provided by statute.

Sec. -12. Other duties of director; suit to enforce chapter. (a) The director has the power and jurisdiction to supervise and regulate every CATV company operating within this State so far as may be necessary to carry out the purposes of this chapter, and to do all things which are necessary or convenient in the exercise of this power and jurisdiction. The director may promulgate, pursuant to chapter 91, such rules and regulations as are necessary to carry out this chapter, including rules and regulations establishing criteria which:

- (1) Categorize CATV companies according to their method of operation or any other appropriate criteria;
- (2) Identify general requirements for the designation of service area; and
- (3) Govern the quality of the signal required to be transmitted by the CATV system.

(b) The director may approve or disapprove, as the public interest may require, all provisions of contracts or other agreements between CATV companies and public utilities concerning the use of the equipment of the public utility by the CATV company, except for those matters which are regulated by the public utilities commission or by the Federal Communications Commission.

(c) The director or a member of his department may from time to time visit the places of business and other premises and examine the records and facilities of all CATV companies to ascertain if all rules, regulations, and orders of the director have been complied with, and shall have the power to examine all officers, agents, and employees of such CATV companies, and all other persons, under oath, and to compel the production of papers and the attendance of witnesses to obtain the information necessary for administering this chapter.

(d) The director may appoint or contract for such assistants and such clerical, stenographic, and other staff as may be necessary for the proper administration and enforcement of this chapter without regard to chapters 76 and 77; provided, the exemption from chapters 76 and 77 shall terminate one year

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after the effective date of this Act and any person appointed by the director to aid in the administration and enforcement of this chapter shall comply with chapters 76 and 77 at that time.

(e) The director shall have the power and authority to institute all proceedings and investigations, hear all complaints, issue all process and orders, and render all decisions necessary to enforce this chapter or the rules, regulations, and orders adopted thereunder, or to otherwise accomplish the purposes of this chapter.

(f) The director or other aggrieved party shall have the right to institute, or to intervene as a party in, any action in any court of law seeking a mandamus, or injunctive or other relief to compel compliance with this chapter, or any rule, regulation, or order adopted thereunder, or to restrain or otherwise prevent or prohibit any illegal or unauthorized conduct in connection therewith.

Sec. -13. CATV advisory committee. There is established the CATV advisory committee. The committee shall consist of five members appointed by the governor as provided in section 26-34.

The committee shall advise the director, after its formation and so long as he has the power granted him by section -4 of this chapter, on all matters affecting the issuance or revocation of CATV permits, the filing of rates by CATV companies, and any other matter within the jurisdiction of this chapter.

The members of the committee shall serve without pay but shall be entitled to reimbursement for necessary expenses while attending meetings and while in discharge of their duties.

Sec. -14. Annual reports; fees. With relation to each CATV permit, each permittee shall file annually with the director on forms to be prescribed by the director, a statement of its revenue and expenses and its ownership. The completed forms shall be kept on file open to the public.

A permittee under this chapter shall pay an annual fee computed in a schedule to be determined by the director. The fees so collected shall be used to offset the costs of administering this chapter."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii, the sum of \$40,000, or so much thereof as may be necessary, for the purpose of initiating this Act.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 19, 1970.)

ACT 113

H. B. NO. 540

A Bill for an Act Relating to the Post-Retirement Allowance.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 88-90, Hawaii Revised Statutes is amended to read as follows:

“Section 88-90. Post retirement allowances. (a) There shall be payable to each person receiving any pension, annuity or retirement allowance, a post retirement allowance which shall consist of an amount equivalent to one and one-half per cent of the monthly pension, annuity or retirement allowance as originally computed, approved and paid. This benefit shall be added to the monthly pension, annuity or retirement allowance on the first day of July in each year following June 30, 1961, as follows:

- (1) To each person receiving a pension, annuity or retirement allowance on June 30, 1961, payment of the benefit shall commence on July 1, 1961, except that after June 30, 1963, the monthly benefits payable under this subsection shall be computed and paid on the basis of the number of years that has elapsed since the person entitled thereto first became the recipient of the pension, annuity or retirement allowance from which the benefit is derived.
- (2) To each person first receiving a pension, annuity or retirement allowance after June 30, 1961, payment of the benefit shall commence on the first of July following the calendar year in which the payment of the pension, annuity or retirement allowance is effective.

(b) After June 30, 1970, the post retirement allowance shall consist of an amount equivalent to two and one-half per cent of the monthly pension, annuity or retirement allowance as originally computed and paid. This benefit shall be payable on the first day of July in each year following June 30, 1970 as follows:

- (1) To each person, who on June 30, 1970 was receiving a post retirement allowance as described under subsection (a) hereof, payment of the benefit shall commence on July 1, 1970.
- (2) To each person first receiving a pension annuity or retirement allowance after December 31, 1968, payment of the benefit shall commence on the first day of July following the calendar year in which the payment of the pension annuity or retirement allowance is effective.”

SECTION 2. Section 88-45, Hawaii Revised Statutes is amended to read as follows:

“Section 88-45. Employee contributions. After June 30, 1965, the normal contribution by each member to the annuity savings fund shall be six per cent of his compensation, provided that after June 30, 1967, all firemen and policemen shall contribute ten and four-tenths per cent of their compensation.

In addition to the foregoing, all members including firemen and policemen, shall contribute one and eight-tenths per cent of compensation to the post retirement fund.”

SECTION 3. Section 88-115, Hawaii Revised Statutes is amended to read as follows:

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“Section 88-115. Post retirement fund. The post retirement fund shall be the fund to which shall be credited all moneys contributed by the members and provided by the State and counties to pay the post retirement allowances and from which all post retirement allowances shall be paid in accordance with section 88-90: Annually, the board of trustees shall determine the amount of money that the State and counties shall contribute to this fund on the basis of two and five-tenths per cent of the aggregate annual amount of compensation as of March 31 of the preceding year of all members who were employees of the State or counties, as the case may be, as determined by the annual valuation of the actuary. Such amount shall be prorated among the State and the respective counties upon the basis of the payrolls as aforesaid and each shall pay its prorata share thereof.”

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 5. Effective Date. This Act shall take effect on July 1, 1970.
(Approved June 19, 1970.)

ACT 114

H. B. NO. 1405-70

A Bill for an Act Repealing Chapter 274, Hawaii Revised Statutes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 274, Hawaii Revised Statutes, is repealed.

SECTION 2. This Act shall take effect upon its approval.
(Approved June 19, 1970.)

ACT 115

H. B. NO. 1457-70

A Bill for an Act Relating to Certain Special Funds of the University of Hawaii.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The first sentence of section 36-27, Hawaii Revised Statutes, as amended, is further amended to read:

“Except as hereinafter provided, and notwithstanding any provisions of any other law to the contrary, there shall be deducted from time to time by the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the school cafeteria special funds of the community colleges, the department of education and the university laboratory school and the special funds of the student housing, summer session, the division of continuing education and community service and the bookstores of the university of Hawaii, five per cent of all receipts of each such special fund, which deduction shall be transferred to the general fund of the State and become general realizations of the State.”

SECTION 2. The first sentence of section 36-30, Hawaii Revised Statutes, as amended, is further amended to read:

* Edited accordingly

"Each special fund, except the school cafeteria special funds of the community colleges, the department of education and the university laboratory school and the special funds of the student housing, summer session, the division of continuing education and community service and the bookstores of the university of Hawaii, shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned."

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect July 1, 1970.

(Approved June 19, 1970.)

ACT 116

H. B. NO. 1795-70

A Bill for an Act Relating to Divorce and Amending Chapter 580, Hawaii Revised Statutes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 580-41, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 580-41 Grounds for divorce. Divorces from the bond of matrimony shall be granted for the causes hereinafter set forth and no other:

- (1) For adultery in either party;
- (2) For wilful and utter desertion for the term of six months;
- (3) When either party is sentenced to imprisonment for life or for seven years or more; and after divorce for such cause no pardon granted to a party so sentenced shall affect the divorce;
- (4) For insanity of either party, where the same has existed for three years or more next preceding the filing of the complaint;
- (5) For extreme cruelty;
- (6) For habitual drunkenness or the habitual excessive use of opium, morphine, or any other like drug, continued for a period of not less than one year;
- (7) When one party to the marriage, whether intentionally, studiedly, wilfully, deliberately, or not, inflicts grievous mental suffering upon the other, continued over a course of not less than sixty days, as to render the life of the other burdensome and intolerable and their further living together insupportable;
- (8) When the husband, being of sufficient ability to provide suitable maintenance for his wife, neglects or refuses to do so for a continuous period of not less than sixty days;

* Edited accordingly

- (9) Upon application of either party, when the parties have lived separate and apart under a decree of separation from bed and board entered by any court of competent jurisdiction, the term of separation has expired, and no reconciliation has been effected;
- (10) Upon the application of either party, when the parties have lived separate and apart under a decree of separate maintenance entered by any court of competent jurisdiction for a period of more than two years, and no reconciliation has been effected.
- (11) Upon the application of either party, when the parties have lived separate and apart for a continuous period of more than two years immediately preceding the application, there is no reasonable likelihood that cohabitation will be resumed, and the court is satisfied that, in the particular circumstances of the case, it would not be harsh and oppressive to the defendant or contrary to the public interest to grant a divorce on this ground on the complaint of the plaintiff.

If the party applying for divorce does not insist upon a divorce from the bond of matrimony, a divorce only from bed and board shall be granted, and the relations of the parties after such divorce shall be regulated by the laws concerning separation."

SECTION 2. Section 580-45, Hawaii Revised Statutes, is hereby amended to read as follows:

"Sec. 580-45 Decree. If after a full hearing, the court or judge is of opinion that a divorce ought to be granted, either from the bonds of matrimony or from bed and board, a decree shall be signed, filed, and entered, which shall take effect from and after such time as may be fixed by the court or judge in the decree. In case of a decree dissolving the bonds of matrimony, such time so fixed shall not be more than one month from and after the date of the decree.

When a divorce is granted because of habitual drunkenness, habitual use of narcotics, or adultery, the court may in its discretion designate grievous mental suffering as the ground for divorce in the divorce decree, if it determines that such would be in the best interests of the children or would conduce toward rehabilitation of either party.

Any provision to the contrary notwithstanding, except as hereinafter provided, if after a full hearing, the court or judge is of the opinion that a divorce from the bonds of matrimony ought to be granted, and there is a child of the parties less than eighteen years of age or in posse, an interlocutory decree, effective from and after such time as may be fixed by the court or judge in the decree not earlier than the date of final hearing and not later than one month after the date of the decree, shall be signed, filed, and entered adjudging that the party in whose favor the court or judge decides, is entitled to a divorce from the bonds of matrimony and granting or reserving for future determination such relief authorized by section 580-47 as may appear just and equitable, but the interlocutory decree shall not operate to dissolve the bonds of matrimony. After the entry of the interlocutory decree, neither party shall have the right to dismiss the action without the consent of the other. If the interlocutory decree

has remained in force for six months or more and the parties have not reconciled, the court or judge on motion of either party, or upon its own motion, shall enter a final decree dissolving the bonds of matrimony and granting such other and further relief as may be necessary to complete disposition of the action; provided, that upon all the children of the parties either attaining eighteen years of age or becoming married or otherwise emancipated or adopted or deceased, or upon the decease of either party, within six months after the effective date of the interlocutory decree, the court or judge upon motion and due proof of the facts shall enter the final decree effective as of the date of the event; provided, further, that if any appeal has been taken from the judgment of divorce embodied in the interlocutory decree or if a motion for a new trial has been made, the final decree shall not be entered until the appeal or motion has been finally disposed of, nor then, if the judgment has been reversed or the motion granted. Motions for entry of final decree may be heard ex parte on affidavit or the court or judge may require notice to the other party or other interested persons and a hearing, as the circumstances and the interests of justice may dictate in the discretion of the court or judge.

If the parties have been separated for six months or more under a decree of separation or a decree of separate maintenance, or if a divorce is granted pursuant to section 580-41(11), then the court shall not enter an interlocutory decree but shall proceed to grant an absolute divorce."

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 19, 1970.)

ACT 117

H. B. NO. 1857-70

A Bill for an Act Relating to Adoption of Compensation Plan.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 77-4, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 77-4 Adoption of compensation plan. All directors shall meet biennially in joint conference at the call of, and at such time and place decided by, the state director or his authorized representative to review the general condition of the compensation plan and which shall include: the identification and price of bench mark classes; policies and standards; rules and regulations; and any and all areas in the plan which are not inconsistent with the intent and purpose of this chapter. Representatives of organizations representing employees and interested persons may attend and participate in the deliberations, but not vote. The conference of personnel directors shall hold as many meetings as are necessary to accomplish the above-stated purposes and to resolve any differences. Decisions shall be made from majority vote of all directors. If any director is absent, he may authorize his designated representative to act in his stead.

* Edited accordingly

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The provisions of this section shall not apply to the compensation for positions referred to in section 77-5, commonly known as blue-collar positions.

(b) The conference shall compile its views and recommendations, including the tentative compensation plan, to be completed before October 15 of every odd-numbered year and shall be submitted to the appeals board. The appeals board shall upon receipt see to it that the tentative compensation plan is published and that copies, together with the view of the conference of directors, are available to interested parties.

(c) There shall be an appeals board composed of one civil service commission member from each jurisdiction who shall be appointed by the governor. Alternate members from each jurisdiction shall also be appointed by the governor. The term of two of the incumbents shall expire on June 30, 1964, and the term of the other three shall expire on June 30, 1966. Thereafter, succeeding members and their respective alternates shall be appointed for a term of two years. The cost of operations thereof shall be met by state legislative appropriations.

Notwithstanding any other laws to the contrary, each member of the appeals board shall receive \$10 per day for each day on which work is done by them in connection with authorized activities of the board, the cost thereof to be met by state legislative appropriations for the appeals board.

The appeals board shall meet biennially to receive recommendations and comments relating to the compensation plan. The board shall schedule hearings for pricing appeals from affected persons and parties and may hold public hearings as well. At least one biennial appeal hearing shall be held in each jurisdiction. All petitions for appeal shall be filed with the appeals board within twenty days from the date of publication of the tentative compensation plan. Notice of the time and place of such appeal hearings shall be published in the jurisdiction in a newspaper of general circulation at least ten days prior to such hearings.

The appeals board shall function independently of the conference of personnel directors and the several civil service departments of the State and the counties, but may procure office facilities and clerical assistance from them. The board may appoint such technical and other employees not subject to chapters 76 and 77, as it deems necessary. Neither the appeals board nor any of its members or staff shall consult with any member of the conference of personnel directors on any matter pending before the board except on notice and opportunity for the appealing employee or his representative to participate.

The appeals board may appoint a qualified hearings officer, not subject to chapter 76 and 77, and invest him with power to hear such appeals and report thereon to the appeals board.

The appeals board shall adopt policies and standards relative to compensation. The appeals board may make rules and regulations for the conduct of appeal hearings and public hearings.

(d) Based on the policies and standards referred to in subsection (c), the appeals board shall make whatever adjustments to the affected classes where the appeals have been filed in the compensation plan that are necessary. Decisions on changes to the compensation plan shall be made on the basis of major-

ity vote, shall be in writing and accompanied by separate findings, and shall be binding on all jurisdictions. Each jurisdiction shall be entitled to one vote. In the event a commissioner is absent, the alternate of that jurisdiction shall vote in his stead.

The final adjustments to the compensation plan shall be completed by the third Wednesday of January of each even-numbered year. Following the final adjustments, each director shall submit to the state legislature, through the office of the governor, a report setting forth the compensation plan and the cost thereof for its information and approval. The approved compensation plan shall be effective as of July 1 of each even-numbered year. The salary range assignments of classes shall not be appealable until the next biennial review of the compensation plan.

(e) The director shall assign new classes to salary ranges on the basis of the policies and standards referred to hereinabove. The assignments shall be effective immediately if the availability of funds is certified to by the respective fiscal officers, and shall be in effect until adoption of the next compensation plan; provided, that pricing appeals therefor may be held every six months, or at the time of the next biennial review.

All petitions for appeals from affected persons on the pricing of new classes shall be filed with the appeals board within twenty days from the date the notice of such is given by the director. Notice of time and place of such appeal hearing shall be published in the jurisdiction in a newspaper of general circulation at least ten days prior to the hearing. The appeals board shall hear all the appeals as aforementioned.

Except as otherwise provided in this subsection, the procedures to be followed shall be that prescribed in subsections (c) and (d) and in the rules and regulations of the board.

Public hearings shall not be held under this subsection.

After hearing all appeals, the appeals board shall make adjustments to the appealed classes that are necessary based on the policies and standards referred to hereinabove. Decisions on the pricing appeals shall be made on the basis of majority vote, shall be in writing and accompanied by separate findings, and shall be binding on all jurisdictions.

The final adjustments for these appeals in January shall be completed no later than the third Wednesday of January of each odd-numbered year. Following the final adjustments, each director shall submit to the state legislature, through the office of the governor, a report setting forth the adjustments based on the decisions of the board and the cost thereof for its information and approval.

All decisions of the board under this subsection in favor of the person appealing and granting a higher compensation shall be retroactive to the date of action by the director.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

* Edited accordingly

ACT 118

SECTION 3. This Act shall take effect upon its approval.

(Approved June 19, 1970.)

ACT 118

H. B. NO. 1870-70

A Bill for an Act Relating to Compensation of Public Officers and Employees.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 77-5, Hawaii Revised Statutes, is amended to read as follows:

“Section 77-5. Compensation plan for blue-collar positions. The salary schedule prescribed in section 77-13 shall not apply to positions in recognized trades or crafts or other skilled mechanical crafts, or unskilled, semiskilled, or skilled manual labor occupations, including positions of foremen, inspectors and supervisors in positions having trades, crafts, or laboring experience and knowledge as the paramount requirement, commonly known as blue-collar positions. The pay of employees who occupy such positions shall be fixed and adjusted biennially and shall, as nearly as is consistent with the public interest, reflect the average of prevailing wages paid in the State for the same or similar kinds of bench-mark positions; provided that the provision of section 77-4 where it is not inconsistent with the provisions of this section shall be applicable.

- (1) In the new wage rate plan, the monthly rates of pay for blue-collar positions shall be determined by application of prevailing wages which shall be in accordance with the following provisions; provided that the wage survey conducted for this purpose shall not include wages paid by the construction industry but shall include wages paid in other private industries and government jurisdictions in the State other than State and local jurisdictions, employing personnel in the State; provided further that if data on prevailing wages in the State for a class is lacking or insufficient, reasonable wage data of other areas which have pertinence to the State may be used:
 - (A) The salary schedule applicable to blue-collar positions shall be comprised of five increment steps at five per cent intervals.
 - (B) The average of prevailing wages shall be reflected at step two of the schedule.
 - (C) A salary schedule for nonsupervisory blue-collar positions, hereafter to be referred to as the wage board schedule, shall be established in accordance with accepted techniques and methods of prevailing wage application.
 - (D) A salary schedule for supervisory blue-collar positions, hereafter to be referred to as wage board supervisory schedule, shall be established in systematic relationship to the level of work supervised as follows:

- (i) The wage board supervisory level for working foremen shall be set at not more than ten per cent above the level of work supervised.
 - (ii) The wage board supervisory level for foreman I shall be set not more than twenty per cent above the level of work supervised.
 - (iii) The wage board supervisory level for foreman II shall be set at not more than thirty per cent above the level of work supervised.
 - (iv) The wage board supervisory level for foreman III shall be set at not more than forty per cent above the level of work supervised.
 - (v) The wage board supervisory level for supervisory positions above foreman III shall be set systematically in consideration of the aforementioned pattern reflecting differences in relative levels of duties and responsibilities.
- (2) Wherever payment is made on the basis of an annual, weekly, hourly, or daily rate, the rate shall be computed as provided for under section 77-13(e).
- (3) Implementation of wage board salary schedule.

- (A) The conference of personnel directors shall conduct a survey of wages for positions covered by this section, using sound statistical methodology and techniques and shall recommend to the public employees compensation appeals board for its approval the wage board schedules, based upon survey findings and consistent with subsection (1) of this section.

The conference of personnel directors shall also compile and recommend to the public employees compensation appeals board a tentative compensation plan based upon such factors as the kind and subject matter of work, level of difficulty and responsibility, qualification requirements, and prevailing wage data for classes deemed covered by this section by October 15 of every odd-numbered year.

Full opportunity for consultation with the persons and organizations including employee organizations shall be afforded. The conference of personnel directors may enter into cooperative arrangements with both public or private agencies in the conduct of the wage survey.

- (B) The appeals board referred to in section 77-4 shall provide for the publication of the tentative compensation plan. All petitions for appeal against the compensation plan, including the pricing of classes or whether the class should be included or excluded from

the blue-collar plan, shall be filed with the appeals board within twenty days from the date of publication of the tentative plan.

The board shall meet biennially to hear appeals from affected persons and parties concerning the tentative compensation plan and may hold public hearings as well. At least one appeal hearing shall be held in each jurisdiction.

Final adjustments by the board to the compensation plan shall be in accordance with its established policies and standards relative to compensation. The board shall complete its final adjustments by the third Wednesday in January of every even-numbered year.

Following the final adjustment, the conference of directors shall submit to the State legislature, through the office of the governor, a report setting forth the final compensation plan and wage board schedules and the cost thereof for its information and approval. The effective date of the approved plans shall be July 1 of every even-numbered year; provided that the existing compensation for blue-collar positions shall remain in effect until the establishment and implementation of the new wage rate plan as provided herein.

The legislature adopts the assignment of positions and classes to the wage board levels as submitted by the governor to the regular session of 1970. Notwithstanding the foregoing, for the period July 1, 1970 to June 30, 1972, the legislature approves the following wage schedules:

WAGE BOARD SCHEDULE

NON SUPERVISORY

WB	1	2	3	4	5
1	373	390	411	432	454
	2.15	2.25	2.37	2.49	2.62
2	400	419	440	462	485
	2.31	2.42	2.54	2.67	2.80
3	407	428	449	471	495
	2.35	2.47	2.59	2.72	2.86
4	436	458	481	505	530
	2.52	2.64	2.78	2.91	3.06
5	468	491	516	542	569
	2.70	2.83	2.98	3.13	3.28
6	498	523	549	576	605
	2.87	3.02	3.17	3.32	3.49
7	530	556	584	613	644
	3.06	3.21	3.37	3.54	3.72
8	560	588	617	648	680
	3.23	3.39	3.56	3.74	3.92
9	595	626	657	690	725
	3.43	3.61	3.79	3.98	4.18
10	623	654	687	721	757
	3.59	3.77	3.96	4.16	4.37
11	653	686	720	756	794
	3.77	3.96	4.15	4.36	4.58
12	685	719	755	793	833
	3.95	4.15	4.36	4.58	4.81

WB	1	2	3	4	5
13	715	751	789	828	869
	4.13	4.33	4.55	4.78	5.01
14	747	784	823	864	907
	4.31	4.52	4.75	4.99	5.23
15	778	817	858	901	946
	4.49	4.71	4.95	5.20	5.46

WAGE BOARD SCHEDULE						
SUPERVISORY						
Effective Grade Supervised	Foreman Level	1	2	3	4	5
1	WF	409	430	451	474	498
		2.36	2.48	2.60	2.74	2.87
	F I	447	468	492	517	543
		2.58	2.70	2.84	2.98	3.13
	F II	484	508	534	561	589
		2.79	2.93	3.08	3.23	3.40
	F III	520	546	574	603	633
		3.00	3.15	3.31	3.48	3.65
	GF	558	586	615	646	678
		3.22	3.38	3.55	3.73	3.91
2	WF	440	463	485	509	534
		2.54	2.67	2.80	2.94	3.08
	F I	480	504	529	555	583
		2.77	2.91	3.05	3.20	3.36
	F II	520	546	574	603	633
		3.00	3.15	3.31	3.48	3.65
	F III	560	588	617	648	680
		3.23	3.39	3.56	3.74	3.92
	GF	600	629	662	695	730
		3.46	3.63	3.82	4.01	4.21
3	WF	449	471	494	519	545
		2.59	2.72	2.85	2.99	3.14
	F I	489	513	539	566	594
		2.82	2.96	3.11	3.27	3.43
	F II	530	556	584	613	644
		3.06	3.21	3.37	3.54	3.72
	F III	570	600	629	660	693
		3.29	3.46	3.63	3.81	4.00
	GF	612	641	674	708	743
		3.53	3.70	3.89	4.08	4.29
4	WF	480	504	529	556	584
		2.77	2.91	3.05	3.21	3.37
	FI	523	550	577	606	636
		3.02	3.17	3.33	3.50	3.67
	F II	567	595	625	657	690
		3.27	3.43	3.61	3.79	3.98
	F III	610	641	673	707	742
		3.52	3.70	3.88	4.08	4.28
	GF	654	687	722	758	796
		3.77	3.96	4.17	4.37	4.59
5	WF	515	540	568	596	626
		2.97	3.12	3.28	3.44	3.61
	F I	562	589	619	650	683
		3.24	3.40	3.57	3.75	3.94
	F II	608	638	671	705	740
		3.51	3.68	3.87	4.07	4.27
	F III	655	687	722	759	797
		3.78	3.96	4.17	4.38	4.60
	GF	702	737	774	813	854
		4.05	4.25	4.47	4.69	4.93
6	WF	548	575	604	634	666
		3.16	3.32	3.49	3.66	3.84
	F I	598	628	659	691	726

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		1	2	3	4	5
		3.45	3.62	3.80	3.99	4.19
	F II	647	680	714	749	786
		3.73	3.92	4.12	4.32	4.53
	F III	697	732	769	806	846
		4.02	4.22	4.44	4.65	4.88
	GF	747	785	824	864	907
		4.31	4.53	4.75	4.99	5.23
7	WF	583	612	642	674	708
		3.36	3.53	3.70	3.89	4.08
	F I	636	667	701	736	773
		3.67	3.85	4.04	4.25	4.46
	F II	689	723	759	797	837
		3.98	4.17	4.38	4.60	4.83
	F III	742	778	818	858	901
		4.28	4.49	4.72	4.95	5.20
	GF	795	834	876	920	966
		4.59	4.81	5.05	5.31	5.57
8	WF	616	647	679	713	749
		3.55	3.73	3.92	4.11	4.32
	F I	672	706	740	778	817
		3.88	4.07	4.27	4.49	4.71
	F II	728	764	802	842	884
		4.20	4.41	4.63	4.86	5.10
	F III	784	823	864	907	952
		4.52	4.75	4.99	5.23	5.49
	GF	840	882	926	972	1,021
		4.85	5.09	5.34	5.61	5.89
9	WF	655	688	723	759	797
		3.78	3.97	4.17	4.38	4.60
	F I	714	751	787	826	867
		4.12	4.33	4.54	4.77	5.00
	F II	773	813	853	896	941
		4.46	4.69	4.92	5.17	5.43
	F III	834	875	919	965	1,013
		4.81	5.05	5.30	5.57	5.84
	GF	893	938	985	1,034	1,086
		5.15	5.41	5.68	5.96	6.27
10	WF	685	719	756	794	831
		3.95	4.15	4.36	4.58	4.81
	F I	748	785	825	866	909
		4.32	4.53	4.76	5.00	5.24
	F II	810	851	893	938	985
		4.67	4.91	5.15	5.41	5.68
	F III	872	916	962	1,010	1,061
		5.03	5.29	5.55	5.83	6.12
	GF	935	981	1,031	1,083	1,137
		5.39	5.66	5.95	6.24	6.56
11	WF	718	755	792	832	874
		4.14	4.36	4.57	4.80	5.04
	F I	784	823	864	907	952
		4.52	4.75	4.99	5.23	5.49
	F II	849	892	936	983	1,032
		4.90	5.15	5.40	5.67	5.95
	F III	914	960	1,008	1,058	1,111
		5.27	5.54	5.82	6.10	6.41
	GF	980	1,029	1,080	1,134	1,191
		5.65	5.94	6.23	6.54	6.87
12	WF	754	791	831	872	916
		4.35	4.56	4.79	5.03	5.28
	F I	822	863	906	952	1,000
		4.74	4.98	5.23	5.49	5.77
	F II	891	935	982	1,031	1,083
		5.14	5.39	5.67	5.95	6.25
	F III	959	1,007	1,057	1,110	1,166

		1	2	3	4	5
		5.53	5.81	6.10	6.40	6.73
	GF	1,028	1,079	1,133	1,190	1,250
		5.93	6.23	6.54	6.87	7.21
13	WF	787	826	868	911	957
		4.54	4.77	5.01	5.26	5.52
	F I	858	901	947	994	1,044
		4.95	5.20	5.46	5.74	6.02
	F II	930	976	1,026	1,076	1,130
		5.37	5.63	5.92	6.21	6.52
	F III	1,001	1,051	1,105	1,159	1,217
		5.78	6.06	6.38	6.69	7.02
	GF	1,073	1,127	1,184	1,242	1,304
		6.19	6.50	6.83	7.17	7.52
14	WF	822	862	905	950	998
		4.74	4.97	5.22	5.48	5.76
	F I	896	941	988	1,037	1,089
		5.17	5.43	5.70	5.98	6.28
	F II	971	1,019	1,070	1,123	1,179
		5.60	5.88	6.17	6.48	6.80
	F III	1,046	1,098	1,152	1,210	1,271
		6.04	6.34	6.65	6.98	7.33
	GF	1,121	1,176	1,235	1,296	1,361
		6.47	6.79	7.13	7.48	7.85
15	WF	856	899	944	991	1,041
		4.94	5.19	5.45	5.72	6.01
	F I	934	980	1,030	1,081	1,135
		5.39	5.65	5.94	6.24	6.55
	F II	1,011	1,062	1,115	1,171	1,230
		5.83	6.13	6.43	6.76	7.10
	F III	1,089	1,144	1,201	1,261	1,324
		6.28	6.60	6.93	7.28	7.64
	GF	1,167	1,226	1,287	1,352	1,420
		6.73	7.07	7.43	7.80	8.19

(4) Subsequent implementation of the wage board schedules. The compensation plan and wage board schedules for positions covered under this section shall be reviewed and adjusted biennially in accordance with subsection (3) of this section.

(5) In fiscal year 1969-70 any employee who has completed one year of satisfactory service at step four shall be advanced to step five. Thereafter, any employee shall be advanced to the next higher step, if available, on his service anniversary date in accordance with paragraph 6 of section 77-12."

SECTION 2. Subsection (d) of Section 77-13, Hawaii Revised Statutes, is amended to read as follows:

"(d) The salaries of public officers and employees shall be converted to the salaries in the schedule as set forth in subsection (c) of this section from the schedule as set forth in subsection (a) of this section in the following manner:

(1) Incumbents in salary ranges 4 to 31 and SC-1, SC-2, and SC-3 who are entitled to an increment or longevity step on July 1, 1970 shall be granted their increment or longevity step on the salary schedule as contained in subsection (a) and then shall be assigned to the same salary range and increment step or longevity step in the schedule as set forth in subsection (c) of this section, and they shall receive the compensation provided for these increment or longevity steps.

- (2) Any incumbent who is at salary range 4 or a higher salary range and who is entitled to an annual increment step after July 1, 1970 shall receive his annual increment step on his appropriate service or anniversary date. However, beginning July 1, 1970, such an incumbent shall be compensated at the pay rate for his existing salary range and increment step in the salary schedule to take effect on July 1, 1970.
- (3) Any employee not being compensated at a rate set forth in the salary schedule of subsection (a) shall first be moved to the next higher increment or longevity step within the same salary range in the schedule of subsection (a), if there is such a step; his salary shall then be assigned to the same salary range and increment or longevity step in the schedule as set forth in subsection (c) of this section.
- (4) The compensation of any incumbent whose pay rate on June 30, 1970, exceeds the L-4 pay rate of the appropriate ranges in the schedule as set forth in subsection (c) of this section for the class to which his position is allocated shall be increased by 10 per cent.
- (5) Conversion of compensation rates to the new schedule shall be made without causing any loss or reduction in the compensation rates of incumbent officers and employees; nor shall their service anniversary dates be affected by the conversion process, except as otherwise provided by this Act.
- (6) Based on the salary schedule provided in subsection (a) and his increment step and pay rate as of June 30, 1970, each incumbent in salary range 2 or salary range 3 shall, on June 30, 1970, have his pay rate adjusted upwards to the pay rate for the next higher step in the same salary range. Following this initial adjustment, his pay rate shall be converted to the pay rate in salary range 4 which is identical, and if there be none, then to the next higher pay rate. Then on July 1, 1970, he shall be converted to the new salary schedule. The foregoing adjustments shall be made without regard to the employee's service anniversary date and notwithstanding the provisions of section 77-12, Hawaii Revised Statutes, each employee affected by these provisions shall have his anniversary date changed to July 1. It is the intent of the legislature that salary range 2 and salary range 3 be deleted and that salary range 4 shall be the lowest salary range in the schedule of salaries.
- (7) After the changeover to the July 1, 1970 salary schedule has been made, the pay rate for an employee: (1) who was compensated at the pay rate for either step G, Longevity 1, 2, 3, or 4 or at a red circle pay rate on June 30, 1970, and (2) who continued to receive compensation at the same step on July 1, 1970 shall have his pay rate adjusted upwards to the next higher pay rate in the same salary range. It is provided that if his pay step was at longevity 4 or a red circle pay rate, his pay rate shall be increased by approximately five per cent so that the pay rates will be integrated as much as possible. The foregoing adjustments shall be made without regard to the employee's service anniversary

sary date and notwithstanding the provisions of section 77-12, Hawaii Revised Statutes, each employee affected by these provisions shall then have his anniversary date changed to July 1, and shall not be eligible for a longevity step increase until he has served for three years from July 1, 1970.

In making the adjustments authorized by this section, each person affected by this section shall receive an adjustment in compensation of at least one increment or longevity step or five per cent."

SECTION 3. The sum of \$4,298,650, or so much thereof as may be necessary, is hereby appropriated from the general revenues of the State for increases and adjustments in compensation made by this Act effective as of July 1, 1970 up to and including June 30, 1971, provided that the department of budget and finance shall report expenditures made from this appropriation to the next session of the legislature.

In the case of the counties, the director of finance of the State shall receive proper vouchers showing all monies due under this Act. It is provided that special, separate, and federal fund monies shall be used to the maximum extent before State funds are utilized and that unexpended funds shall be returned to the State director of finance.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 19, 1970.)

ACT 119

H. B. NO. 2105-70

A Bill for an Act to Amend Section 76-47, HRS, Relating to Appeals from Suspension, Dismissals and Demotions before the Civil Service Commission.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The last paragraph of Section 76-47, HRS, is hereby amended to read as follows:

"When an appeal hearing is before a county civil service commission, the attorney general shall be counsel for the commission and the county attorney shall be counsel for the appointing authority. If, however, an appeal hearing is before the state commission, the attorney general shall be counsel for the appointing authority and the county attorney of the county in which the appeal hearing is being conducted shall be counsel for the commission."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 19, 1970.)

ACT 120

H. B. NO. 2114-70

A Bill for an Act Relating to the Savings and Loan Associations.

* Edited accordingly

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 407, Hawaii Revised Statutes, is amended by adding a new section to read as follows:

“Sec. . Service Corporations. (a) General service corporations. Subject to the provisions of this section, an association may, if permitted by the terms of its charter, invest in the capital stock, obligations, or other securities of any service corporation organized under the laws of this State if:

- (1) The entire capital stock of such service corporation is available for purchase by, and only by, any and all savings and loan associations in this State, and the capital stock is owned by more than one savings and loan association;
- (2) Not more than 25 percent of the outstanding capital stock of such service corporation is, or may be, owned by any savings and loan association;
- (3) Every eligible savings and loan association is permitted to own an equal amount of the capital stock of such service corporation, or on such uniform basis as may be fixed by such corporation, each such association is permitted to own an amount of capital stock that is a stated percentage of its assets or saving capital at the time of any purchase by it of such stock, but capital stock outstanding on December 31, 1968, may be disregarded in determining compliance with this requirement; and
- (4) Substantially all of the activities of such service corporation consist of originating, purchasing, selling and servicing loans upon real estate and participating interests therein, and/or clerical, bookkeeping, accounting, statistical, or similar functions performed primarily for savings and loan associations, plus such other activities the bank examiner may approve.

(b) Approved service corporations. A savings and loan association may form a service corporation or invest in the capital stock, obligations or other securities of a service corporation other than as set forth in paragraph (a) of this section only with the prior specific approval of the bank examiner. Each application for approval to invest in a service corporation pursuant to this paragraph (b) shall contain a statement setting forth the need for such corporation, the services to be performed by the corporation, the names of all institutions participating in the formation of the corporation, the amount of capital stock investment by each such institution, and such other information as the bank examiner may require.

(c) Limitations. A savings and loan association may make any investment under this section if its aggregate outstanding investment in the capital stock, obligations, or other securities of service corporation would not thereupon exceed 1 percent of the association's assets. For the purposes of this section, the term “aggregate outstanding investment” means the sum of amounts

paid for the acquisition of capital stock or securities and amounts invested in obligations of service corporations less amounts received from the sale of capital stock or securities of service corporations and amounts paid to the savings and loan association to retire obligations of service corporations.

(d) Examination. No savings and loan association may invest in the capital stock, obligations, or other securities of any service corporation unless there has been obtained a written agreement with the bank examiner by such service corporation that:

- (1) In the case of a service corporation described in paragraph (a) of this section, such corporation will permit and pay the cost of such examination of the corporation by the bank examiner as the bank examiner from time to time deems necessary to determine the propriety of any investment by a savings and loan association under this section; and
- (2) In the case of a service corporation approved by the bank examiner under paragraph (b) of this section, such corporation will permit and pay the cost of such examination and/or audit by the bank examiner as the bank examiner may from time to time deem necessary.

(e) Disposal of investment. Whenever a service corporation engages in an activity which is not permissible under this section for a service corporation in which a savings and loan association may invest, a savings and loan association having an investment in such service corporation shall dispose of such investment promptly unless, within 90 days following notice to such investing savings and loan association, the impermissible activity is discontinued."

SECTION 2. Chapter 407, Hawaii Revised Statutes, is further amended by adding a new section to read as follows:

"Section . Educational Loans. Any savings and loan association is authorized to invest in loans, obligations, and advances of credit (all of which are hereinafter referred to in this section as "loans") made for the payment of expenses of college or university education, or expenses of vocational education, but no savings and loan association shall make any investment in loans under this section if the principal amount of its investment in such loans, exclusive of any investment which is or which at the time of its making was otherwise authorized, would thereupon exceed five (5) percent of its assets. Such loan may be secured, partly secured, or unsecured, and the association may require a co-maker or co-makers, insurance, guaranty under a governmental student loan guarantee plan or other protection against contingencies. The borrower shall certify to the association that the proceeds of the loan are to be used by a student solely for the payment of expenses of college or university education, or expenses of vocational education. For the purpose of this section the term "college or university education" means education at an institution which provides an educational program for which it awards a bachelor's or higher degree, or provides not less than a two year program which is acceptable for full credit toward a degree, and the term "vocational education" means any course of study or training designed to increase the ability of a person to obtain or advance in employment of any kind."

ACT 121

SECTION 3. Rules and regulations may be promulgated by the bank examiner in order to effectuate the purposes of this Act.

SECTION 4. This Act shall take effect upon its approval.
(Approved June 19, 1970.)

ACT 121

H. B. NO. 2142-70

A Bill for an Act Relating to Government Publications.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 93-3, Hawaii Revised Statutes, is amended to read:

"Sec. 93-3. Deposit of publications. Every state and county agency shall immediately upon release of a publication, deposit fifteen copies with the state publications distribution center and one copy each with the state archives and the University of Hawaii. Additional copies of the publications shall be deposited with the publications distribution center upon request of the state librarian so long as copies are available.

"The state librarian may enter into depository agreements with private and public educational, historical, or scientific institutions or other libraries, within or without the State in order to achieve the objectives sought under this part."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.
(Approved June 19, 1970.)

ACT 122

S. B. NO. 215

A Bill for an Act Relating to the Compensation of Public Employees.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 80-6, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 80-6. Stand-by time pay. Whenever any government employee is required to report to work and reports to work, but is unable to work because of inclement weather, breakdown of machinery, or other conditions beyond the employee's control, he shall be paid a minimum of two hours' pay for that day.

Any employee of the State or any county, or independent board or commission thereof, who is on stand-by duty after his normal hours of work, or on weekends or holidays, for each day on which he renders the service, shall be paid, in addition to his basic compensation, an amount equal to twenty-five per cent of his daily rate of compensation. An employee shall be deemed to be on stand-by duty when he is assigned by the head of the department or other superior to remain at home or at any other designated place for a specified period for the purpose of responding to calls for immediate service. The fact that an employee may be called to duty in cases of emergency shall not, unless the em-

* Edited accordingly

ployee is on stand-by duty, entitle the employee to the additional twenty-five per cent compensation; but, if called to duty, he shall be entitled to overtime compensation.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.
(Approved June 19, 1970.)

ACT 123

S. B. NO. 1221-70

A Bill for an Act Relating to Artesian Wells.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 178, Hawaii Revised Statutes, is amended as follows:

(a) By deleting from the title word “Artesian” so that the title, as amended, shall read “Wells, Generally”,

(b) By amending section 178-1 to read:

“Sec. 178-1 Defined. A well, for the purposes of this chapter, is defined to be any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed into the ground to or penetrating any aquifer or basin whether or not the intended use of such excavation is for the location, exploration, diversion, or for the acquisition of any ground water by natural pressure or artificial means, or, is for the diversion, injection, recharge, or disposal of any water or liquid waste into any underground formation.”

(c) By amending section 178-2 to read:

“Sec. 178-2 Uncapped and flowing a common nuisance; persons responsible therefor. A well through which water flows to the surface of the ground or to any porous substratum by natural pressure and is not capped, cased, equipped, or furnished with such control facilities as will readily and effectively arrest and prevent waste or unnecessary flow of any water from the well is declared to be a common nuisance. The owner, tenant, or occupant of the land upon which such a well is situated, or any person in charge of such a well, who causes, suffers, or permits such common nuisance, or suffers or permits it to remain or continue, is guilty of a misdemeanor.”

(d) By amending section 178-3 to read:

“Sec. 178-3 Waste, defined. For the purposes of this chapter, waste is defined to be causing, suffering, or permitting the water in any well to reach any porous substratum or to flow from the well upon any land, or directly into any stream, or other natural watercourse or channel, or into the sea, or any bay, lake, or pond; or into any street, road, or highway, unless to be used for beneficial purposes; provided, that this section shall not be so construed as to prevent the beneficial use of water by direct flow, or from storage reservoirs served by wells, for irrigation, domestic and other useful purposes, except for driving machinery; provided, that water may be used for driving machinery, in case it is

* Edited accordingly

utilized afterwards for irrigation or other useful purposes. Except as otherwise provided the extent to which water of any well may be devoted to useful or beneficial purposes shall be subject to regulation by the board of land and natural resources, to such quantities as may be necessary for the purposes for which the well is used."

(e) By amending section 178-4 to read:

"Sec. 178-4 Inspection. Every well shall be maintained by the owner, tenant, or occupant of the land upon which the well is situated or the person in charge of the well so as to provide access at all times for purposes of inspection unless the well has been sealed just above the water bearing stratum in a manner approved by the board of land and natural resources, except as otherwise provided."

(f) By amending section 178-5 to read:

"Sec. 178-5 Drilling, notice of. Except as otherwise provided, no well shall be drilled without first notifying, in writing, the board of land and natural resources which notice shall state the exact location of the proposed well, the owner's name, the well driller's name, and the proposed use of the well."

(g) By amending section 178-6 to read:

"Sec. 178-6 Well record to be kept and filed. Any person constructing, or causing to be constructed, a well shall keep a complete and accurate record on forms provided by the board of land and natural resources of each well and within ninety days after the last day of construction or testing, shall file the record in the office of the board of land and natural resources, except as otherwise provided."

(h) By amending section 178-7 to read:

"Sec. 178-7 Violations; penalties. Any person violating this chapter shall be fined not more than \$100; and where continuance of waste, as defined in this chapter, is under immediate control, each day's continuance of the same, after written notice shall constitute a separate offense; provided, that when the continuance of the waste is not under immediate control, as where recasing or sealing is necessary, each day's continuance of the same shall constitute a separate offense after sixty days have elapsed from the time of receiving written notice to prevent waste. For violations under sections 178-5 and 178-6, each day's continuance of the same shall constitute a separate offense after 30 days have elapsed from the time of written notice of violations."

(i) By amending section 178-8 to read:

"Sec. 178-8 Person may relieve himself of liability. Any person owning a well, drilled for water development purposes, through which water flows to the surface of the ground or to any porous substratum by natural pressure or is raised by artificial means, may relieve himself of further responsibility therefor by transferring it to the county in which it is situated and the exclusive right to develop water on or under any property owned by him in the district in which the well is situated and the right to enter the property for the purpose of capping or plugging the well. The county may, for conservation purposes, accept the well and the right and cap or properly plug the well as soon as practicable.

The county shall have the right to use the well and to lay and maintain pipes to draw water therefrom; provided that the use and the laying and maintenance of the pipes be made in such manner as to cause minimum inconvenience to the person owning the well before its transfer as provided herein."

(j) By amending section 178-9 to read:

"Sec. 178-9 Inspection by board. For the more effectual carrying out of this chapter, the board of land and natural resources or its designated agent may at all times enter without warrant the premises where a well is situated or wherein a well is used in order to procure such information or for such other purpose as may be necessary."

(k) By amending section 178-10 to read:

"Sec. 178-10 Appeals from decisions of the board. Any person, firm, co-partnership, or corporation adversely affected thereby may appeal to the circuit court from any ruling of the board of land and natural resources regulating the flow, manner of sealing, or manner of repairing of any well by filing, in writing, a notice of appeal within ten days after the date of the ruling with the clerk of the court and serving a copy thereof upon the board, stating the grounds therefor. The court shall have power to review and to affirm, modify, or reverse any decision or order of the board so appealed from, in any matter of law or fact."

(l) By adding a new section 178-11 to read:

"Sec. 178-11 County charters not impaired. The provisions of this Act shall not be construed as amending or impairing the provisions of any county charter relating to boards or departments of water supply."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 19, 1970.)

ACT 124

S. B. NO. 1342-70

A Bill for an Act Making a Supplemental Appropriation for the Operation of the Mental Health Division of the Department of Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$78,781, or so much thereof as may be necessary, for the operation of preventive and clinical services programs under the mental health division of the department of health, which sum shall be for the staffing and operation of:

Wahiawa Mental Health Clinic		\$18,989 (1)
Paramedical Assistant IV, SR-12	\$ 6,158 (1)	
Other current expenses	\$10,846	
Equipment	\$1,985	

ACT 125

Waipahu Mental Health Clinic

Ewa Day Treatment Center		\$34,056 (3)
Registered Professional Nurse IV, SR-20	\$ 9,091 (1)	
Paramedical Assistant IV, SR-12	\$ 6,158 (1)	
Paramedical Assistant II, SR-8	\$ 5,063 (1)	
Other current expenses	\$11,174	
Equipment	\$ 2,570	

Waianae Day Treatment Center

		\$25,736 (3)
Registered Professional Nurse IV, SR-20	\$ 9,091 (1)	
Paramedical Assistant IV, SR-12	\$ 6,158 (1)	
Paramedical Assistant II, SR-8	\$ 5,063 (1)	
Other Current expenses	\$ 1,834	
Equipment	\$ 3,590	

SECTION 2. The sum appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 3. This Act shall take effect upon its approval.
(Approved June 19, 1970.)

ACT 125

S. B. NO. 1344-70

A Bill for an Act Relating to Procedure when the Title of Vehicle is Transferred.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 286-52(b), Hawaii Revised Statutes, is amended to read as follows:

“(b) Within twenty calendar days thereafter, the transferee shall forward both the certificate of ownership so indorsed and the certificate of registration to the treasurer who shall file the same. Whenever a transferee fails to comply with these provisions, the treasurer shall charge a fee of \$2, in addition to the fee provided in section 286-51, for a new certificate of ownership.”

SECTION 2. This Act shall take effect upon its approval.
(Approved June 19, 1970.)

ACT 126

S. B. NO. 1417-70

A Bill for an Act Relating to the Workmen's Compensation Law.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 386-32(a), Hawaii Revised Statutes, is amended to read as follows:

“ §386-32 **Partial disability.** (a) Permanent partial disability. Where a work injury causes permanent partial disability the employer shall pay the injured worker a weekly benefit at the rate of sixty-six and two-thirds per cent of his average weekly wages, but not more than \$112.50 nor less than \$35 a week, for the period named in the schedule as follows:

Thumb. For the loss of thumb, seventy-five weeks;

First finger. For the loss of a first finger, commonly called index finger, forty-six weeks;

Second finger. For the loss of a second finger, commonly called the middle finger, thirty weeks;

Third finger. For the loss of a third finger, commonly called the ring finger, twenty-five weeks;

Fourth finger. For the loss of a fourth finger, commonly called the little finger, fifteen weeks;

Phalanx of thumb or finger. Loss of the first phalanx of the thumb shall be equal to the loss of three-fourths of the thumb, and compensation shall be three-fourths of the amount above specified for the loss of the thumb. The loss of the first phalanx of any finger shall be equal to the loss of one-half of the finger, and compensation shall be one-half of the amount above specified for loss of the finger. The loss of more than one phalanx of the thumb or any finger shall be considered as loss of the entire thumb or finger;

Great toe. For the loss of a great toe, thirty-eight weeks;

Other toes. For the loss of one of the toes other than the great toe, sixteen weeks;

Phalanx of toe. Loss of the first phalanx of any toe shall be equal to the loss of one-half of the toe; and the compensation shall be one-half of the amount specified for the loss of the toe. The loss of more than one phalanx of any toe shall be considered as the loss of the entire toe;

Hand. For the loss of a hand, two hundred and forty-four weeks;

Arm. For the loss of an arm, three hundred and twelve weeks;

Foot. For the loss of a foot, two hundred and five weeks;

Leg. For the loss of a leg, two hundred and eighty-eight weeks;

Eye. For the loss of an eye by enucleation, one hundred and sixty weeks. For loss of vision in an eye, one hundred and forty weeks. Loss of binocular vision or of eighty per cent of the vision of an eye shall be considered loss of vision of the eye;

Ear. For the permanent and complete loss of hearing in both ears, two hundred weeks. For the permanent and complete loss of hearing in one ear, fifty-two weeks. For the loss of both ears, eighty weeks. For the loss of one ear, forty weeks;

Loss of use. Permanent loss of the use of a hand, arm, foot, leg, thumb, finger, toe, or phalanx shall be equal to and compensated as the loss of a hand, arm, foot, leg, thumb, finger, toe, or phalanx;

Partial loss or loss of use of member named in schedule. Where a work injury causes permanent partial disability resulting from partial loss of use of a member named in this schedule and where such disability is not otherwise compensated in this schedule, compensation shall be paid for a period which

stands in the same proportion to the period specified for the total loss or loss of use of such member as the partial loss or loss of use of that member stands to the total loss or loss of use thereof:

More than one finger or toe of same hand or foot. In cases of permanent partial disability resulting from simultaneous injury to the thumb and one or more fingers of one hand, or to two or more fingers of one hand, or to the great toe and one or more toes other than the great toe of one foot, or to two or more toes other than the great toe of one foot, the disability may be rated as a partial loss or loss of use of the hand or the foot and the period of benefit payments shall be measured accordingly. In no case shall the compensation for loss or loss of use of more than one finger or toe of the same hand or foot exceed the amount provided in this schedule for the loss of a hand or foot;

Amputation. Amputation between the elbow and the wrist shall be rated as the equivalent of the loss of a hand. Amputation between the knee and the ankle shall be rated as the equivalent of the loss of a foot. Amputation at or above the elbow shall be rated as the loss of an arm. Amputation at or above the knee shall be rated as the loss of a leg.

Disfigurement. In cases of personal injury resulting in disfigurement the director of labor and industrial relations may, in his discretion, award such compensation as he deems proper and equitable in view of the disfigurement but not to exceed \$15,000. Disfigurement is separate from other permanent partial disability and includes scarring and other disfiguring consequences caused by medical, surgical, and hospital treatment of the employee.

Other cases. In all other cases of permanent partial disability resulting from the loss or loss of use of a part of the body or from the impairment of any physical function, weekly benefits shall be paid at the rate and subject to the limitations specified in this subsection for a period which bears the same relation to a period named in the schedule as the disability sustained bears to a comparable disability named in the schedule. In cases in which the permanent partial disability must be rated as a percentage of total disability the maximum compensation shall be computed on the basis of the corresponding percentage of \$35,100.

Unconditional nature and time of commencement of payment. Compensation for permanent partial disability shall be paid regardless of the earnings of the disabled employee subsequent to the injury. Payments shall not commence until after termination of any temporary total disability that may be caused by the injury."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 19, 1970.)

* Edited accordingly

A Bill for an Act Relating to Drug Abuse Control.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is hereby appropriated out of the general revenues of the State the sum of \$75,000, or so much thereof as may be necessary, to the office of the governor to be expended in contracts with existing county agencies for enforcement and with qualified nonprofit private organizations for education and rehabilitation projects relating to drug abuse.

SECTION 2. This Act shall be effective upon its approval.

(Approved June 19, 1970.)

A Bill for an Act Making an Appropriation to Revise the Probate Law of the State of Hawaii.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$26,748, or so much thereof as may be necessary, to study and review the probate laws of the State of Hawaii and to prepare for enactment in Hawaii, with appropriate conforming amendments, the Uniform Probate Code, approved by the National Conference of Commissioners on Uniform State Laws and the American Bar Association in 1969.

SECTION 2. The sum appropriated shall be expended by the judicial branch under the direction of the judicial council, which shall cause legislation prepared pursuant to section 1 to be submitted to the Sixth State Legislature at its regular session of 1971.

SECTION 3. The expenditure of monies under this Act shall not be subject to chapters 76 and 77 and section 78-1 of the Hawaii Revised Statutes.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 19, 1970.)

A Bill for an Act Relating to Billiards and Bowling Alleys.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The first sentence of Section 445-52, Hawaii Revised Statutes is amended by deleting the word "eighteen" and substituting therefor the word "fifteen".

SECTION 2. This Act shall take effect upon its approval.

(Approved June 19, 1970.)

A Bill for an Act Relating to a Pilot Program to Provide Health Services at Public Schools.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Purpose and findings. The purpose of this Act is to initiate a pilot project to examine the effectiveness and feasibility of utilizing public health nurses assigned to certain high schools and working with health aides to provide school health services for grades kindergarten through twelve in the public schools. It is in the general welfare of the State to protect, preserve, care for, and improve the physical and mental health of Hawaii's children by making available at the public schools first aid and emergency care, preventive health care, and health center facilities. The legislature finds that: the provision of emergency care in the schools is in need of qualified personnel and facilities; there is a need for standardized health facilities throughout the public schools; there is a need for health appraisals and follow up; there is a desire for a team approach and technical supervision in providing health care at the public schools; and there is a need for inter-departmental agreement and cooperation in the development of qualified health personnel.

SECTION 2. School health services advisory committee. There is created a school health services advisory committee, consisting of eleven members, the purpose of which is to coordinate, guide, and evaluate a school health services pilot project utilizing public health nurses and health aides. The function of the committee shall be to provide coordination, guidance, and evaluation of the school health services pilot project and shall be dissolved when the project is completed. The committee shall consist of a representative from the following state and community organizations: the school health branch of the department of health; 2 representatives from the department of education; the public health nursing branch of the department of health; the department of personnel services; Hawaii State chapter, American Red Cross; and five community organizations specifically interested in school health services, such as, but not limited to, the Hawaii Medical Association, the Hawaii nurses association, the health and community services council, and the Hawaii congress of parent teachers associations. The members of the school health services advisory committee shall be appointed by the governor and shall serve without pay.

SECTION 3. School health services pilot project. The school health services pilot project shall be implemented at six public high schools and those intermediate and elementary schools which feed into each of these respective high schools. The high schools for the school health services pilot project shall reflect an urban, suburban, and rural community setting and shall be selected by the school health services advisory committee. The department of health shall provide public health nurses (RPN IV) with school health nursing qualifications and each public health nurse shall be placed at each of the six high schools selected by the school health services advisory committee. The department of health shall provide the necessary number of health aides in order to

place one health aide at each school within each of the high school complexes selected by the school health services advisory committee. Each health aide shall be hired on a contractual basis and shall be under the supervision of the public health nurse and shall be administratively responsible to the respective school principal. The department of health, school health branch, shall be responsible for the medical and nursing supervision for the school health services pilot project. The school health services pilot project shall not include any part of the health educational curriculum under the department of education in health education existing at the time of the enactment of this bill.

The school health services pilot project shall be administered by the department of education and the department of health through an interdepartmental agreement in cooperation with the school health services advisory committee. The school health services advisory committee shall report the progress, experience, and recommendations for the expansion, improvement, curtailment, or discontinuance of the school health services pilot project to the legislature before the convening of the Regular Session of 1971.

SECTION 4. Appropriation. There is appropriated out of the general revenues of the State of Hawaii the sum of \$300,000, or so much thereof as may be necessary, for the purposes of funding the school health services pilot project including any expenses incurred by the school health services advisory committee in carrying out its evaluation and reporting functions. Funds appropriated by this Act shall be expended by the director of health and shall lapse on June 30, 1971, if not encumbered or expended by that date; provided, however, that the department of health may include in its budget for the next following fiscal period such additional sums as may be necessary to continue the project.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 19, 1970.)

ACT 131

S. B. NO. 1840-70

A Bill for an Act Making a Supplemental Appropriation for the Governor's Conference on the Year 2000.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$20,000, or so much thereof as may be necessary, to supplement a prior appropriation for the governor's conference on the year 2000 as follows:

To expand the program to include the neighbor islands....	\$15,000
To expand the program to include a youth conference on the year 2000....	\$5,000

SECTION 2. The sum appropriated shall be expended by the office of the governor for the purpose of this Act.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 19, 1970.)

A Bill for an Act Relating to Environmental Quality Control.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER

ENVIRONMENTAL QUALITY CONTROL

Sec. -1. Findings and Purpose. The legislature finds that the quality of the environment is as important to the welfare of the people of Hawaii as is the economy of the State. The legislature further finds that the determination of an optimum balance between economic development and environmental quality deserves the most thoughtful consideration, and that the maintenance of the optimum quality of the environment deserves the most intensive care.

The purpose of this chapter is to stimulate, expand and coordinate efforts to determine and maintain the optimum quality of the environment of the State.

Sec. -2. Definitions. As used in this chapter, unless the context otherwise requires:

- (1) ‘Director’ means the director of environmental quality control.
- (2) ‘Center’ means the university of Hawaii ecology or environmental center established in section -3(b).
- (3) ‘Council’ means the environmental council established in section -3(c).
- (4) ‘Office’ means the office of environmental quality control established in section -3(a).
- (5) ‘University’ means the university of Hawaii.

Sec. -3. Office of environmental quality control; ecology or environmental center; environmental council. (a) There is created an office of environmental quality control which shall be headed by a single executive to be known as the director of environmental quality control who shall be appointed by the governor as provided in section 26-34. This office shall implement this chapter and shall be placed within the office of the governor. The office shall serve the governor in an advisory capacity on all matters relating to environmental quality control.

(b) There is created within the university an ecology or environmental center.

(c) There is created an environmental council not to exceed fifteen members. The director shall be the council chairman. The membership of the coun-

cil shall include: representatives from mass media, and representatives from relevant disciplines, for example, environmental design, natural, physical and social sciences, technologies, social ethics and philosophy, representatives of the university, representatives from business and industry, public and private schools and colleges, and voluntary community group and associations. The members of the council shall serve without compensation but shall be reimbursed for expenses, including travel expenses, incurred in the discharge of their duties.

Sec. -4. Powers and duties of the director. (a) The director shall have such powers delegated by the governor as are necessary to coordinate and, when requested by the governor, to direct pursuant to chapter 91 all state governmental agencies in matters concerning environmental quality.

(b) To further the objective of subsection (a), the director shall:

(1) Direct the attention of the university community and the residents of the State in general to ecological and environmental problems through the center and the council, respectively.

(2) Develop a system for monitoring, and arrange for monitoring throughout the State, ecological, environmental and social conditions, changes, and effects such as those involving health, air, water, wastes, noise, soil, and pesticides.

(3) Conduct research or arrange for the conduct of research through contractual relations with the center, State agencies, or other persons with competence in the field of ecology and environmental quality.

(4) Encourage public acceptance of proposed legislative and administrative actions concerning ecology and environmental quality, and receive notice of any private or public complaints concerning ecology and environmental quality through the council.

(5) Recommend programs for long-range implementation of environmental quality control.

(6) Recommend such legislation as is necessary to preserve the environmental quality of the State.

(7) Initiate public educational programs.

(8) Offer advice and assistance to private industry, governmental agencies, or other persons upon request.

Sec. -5. Structure and functions of the ecology or environmental center.

(a) The center shall be so constituted as to make most effective the contribution of the university to the problems of determining and maintaining optimum environmental quality. Its membership shall be comprised of those members of the university community actively concerned with ecological and environmental problems.

(b) The functions of the center shall be to stimulate, expand, and coordinate education, research, and service efforts of the university related to ecologi-

cal relationships, natural resources, and environmental quality, with special relation to human needs and social institutions, particularly with regard to the State.

Sec. -6. Functions of the environmental council. The council shall serve as a liaison between the director and the general public by soliciting information, opinions, complaints, recommendations and advice concerning ecology and environmental quality through public hearings or any other means and by publicizing such matters as requested by the director pursuant to section - 4(b) (4). The council may make recommendations concerning ecology and environmental quality to the director and shall meet at the call of the director."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$155,000, or so much thereof as may be necessary, for the purposes of this Act. Of this amount \$73,000 shall be expended by the university of Hawaii ecology or environmental center in accordance with a yearly contract, the terms and provisions of which shall be mutually agreed upon by the director of environmental quality control and the president of the university of Hawaii.

SECTION 3. This Act shall take effect upon its approval.
(Approved June 22, 1970.)

ACT 133

S. B. NO. 986

A Bill for an Act Relating to Tax Deductions for Pollution Control Devices.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 235, Hawaii Revised Statutes, is amended by adding thereto a new section to be appropriately designated and to read as follows:

"Sec. 235- . Amortization of certified pollution control facilities. Subject to other provisions of this chapter, every person, at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified pollution control facility in the manner, for the period, and to the extent set out in section 169 of the Internal Revenue Code of 1954, as amended by section 704 of the Tax Reform Act of 1969 (P.L. 91-172); provided, however, the amortization deduction shall be available only with respect to a facility (1) the construction, reconstruction or erection of which is completed by the taxpayer after December 31, 1969, or, (2) which is acquired by the taxpayer after December 31, 1969, if the original use of the property commences with the taxpayer after December 31, 1969; provided, further, that the facility is placed in service by the taxpayer before January 1, 1975.

(a) Any water or air pollution control facility, equipment or device purchased, constructed or reconstructed and installed pursuant to rules and regulations adopted by the department of health, or any ordinance, rules and regulations of any governing body of a county consistent with the rules and regulations of the department of health, shall be certified by the State water or air pollution control agency as being in conformity with the State program or requirements for control of either water or air pollution.

(b) Written notice of election to take the accelerated amortization deduction under this section shall be filed with the department of taxation on or before the filing date of the return for the first taxable year for which the election is made under this section. The notice shall be submitted on the form and in the manner as the department of taxation shall prescribe pursuant to chapter 91.

(c) The taxpayer shall file with the department of taxation at the time of his election the certification of approval for the pollution control facility, equipment or device issued by the State water or air pollution control agency, whichever is applicable, and such other documents and data relating thereto as the department of taxation may require."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act, upon its approval, shall be effective for the tax years beginning on and after January 1, 1970.

(Approved June 22, 1970.)

ACT 134

S. B. NO. 1007

A Bill for an Act Relating to Tax Exemptions for Air Pollution Control Devices.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 237, Hawaii Revised Statutes, is amended by adding thereto a new section to be appropriately numbered and to read as follows:

"Section 237- . Air pollution control facility. (a) As used in this section, 'air pollution control facility' shall mean a new identifiable treatment facility, equipment, device, or the like, which is used to abate or control atmospheric pollution or contamination by removing, reducing, or rendering less noxious air contaminants emitted into the atmosphere from a point immediately preceding the point of such removal, reduction, or rendering to the point of discharge of air, meeting emission standards as established by the department of health, excluding air conditioner, fan, or other similar facility for the comfort of persons at a place of business.

(b) Any provision of law to the contrary notwithstanding, there shall be exempted from, and excluded from the measure of, the taxes imposed by chapter 237, all of the gross proceeds arising from, and all of the amount of tangible personal property furnished in conjunction with, the construction, reconstruction, erection, operation, use or maintenance of air pollution control facility; provided that application for exemption shall first be made with the director of health and the director of taxation in the manner prescribed by section 246- ."

SECTION 2. Section 238-3, Hawaii Revised Statutes, is amended to read as follows:

* Edited accordingly

“Section 238-3. Application of tax, etc. (a) The tax imposed by this chapter shall not apply to any property, or to any use of the property, which cannot legally be so taxed under the Constitution or the laws of the United States, but only so long as, and only to the extent to which, the State is without power to impose the tax.

(b) The tax imposed by this chapter shall not apply to any use of property the transfer of which property to, or the acquisition of which by, the person so using the same, has actually been or actually is taxed under chapter 237.

(c) The tax imposed by this chapter shall be paid only once upon or in respect of the same property; provided, that nothing in this chapter contained shall be construed to exempt any property or the use thereof from taxation under any other law of the State.

(d) The tax imposed by this chapter shall be in addition to any other taxes imposed by any other laws of the State, except as otherwise specifically provided herein; provided, that if it be finally held by any court of competent jurisdiction, that the tax imposed by this chapter may not legally be imposed in addition to any other tax or taxes imposed by any other law or laws with respect to the same property or the use thereof, then this chapter shall be deemed not to apply to the property and the use thereof under such specific circumstances, but such other laws shall be given full effect with respect to the property and use.

(e) The tax imposed by this chapter shall not apply to any use of property exempted by section 238-4.

(f) The tax imposed by this chapter shall not apply to any use or consumption of aircraft the transfer of which aircraft to, or the acquisition of which by the person so using or consuming the same, or the rental for the use of the aircraft, has actually been or actually is taxed under chapter 237.

(g) The tax imposed by this chapter shall not apply to any intoxicating liquor as defined in chapter 244 and tobacco products as defined in chapter 245, imported into the State and sold to any person or common carrier in interstate commerce, whether ocean-going or air, for consumption out-of-state by such person, crew, or passengers on the shipper's vessels or airplanes.

(g-1) The tax imposed by this chapter shall not apply to any use of vessels constructed under section 189-25, prior to July 1, 1969.

(h) Each taxpayer liable for the tax imposed by this chapter on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him with respect to the same transaction and property to another state and any subdivision thereof, but such credit shall not exceed the amount of the use tax imposed under this chapter on account of the transaction and property. The director of taxation may require the taxpayer to produce the necessary receipts or vouchers indicating the payment of the sales or use tax to another state or subdivision as a condition for the allowance of the credit.

() The tax imposed by this chapter shall not apply to any use of air pollution control facility exempted by section 237- .”

SECTION 3. Chapter 246, Hawaii Revised Statutes, is amended by adding thereto a new section to be appropriately numbered and to read as follows:

"Section 246- . Exemptions for air pollution control facility. The value of all property in the State (not including a building and its structural components, other than a building which is exclusively a treatment facility) actually and solely used or to be used as an air pollution control facility as the term is defined in chapter 237 shall be exempted from the measure of the taxes imposed by this chapter; provided, however, the property exemption shall be applicable only with respect to a certified facility which is property (1) the construction, reconstruction or erection of which is completed by the taxpayer after June 30, 1969, or, (2) acquired by the taxpayer after June 30, 1969, if the original use of the property commences with the taxpayer after June 30, 1969; provided, further, the facility is placed in service by the taxpayer before July 1, 1975.

Application for the exemption provided herein shall first be made with the director of health who shall, if satisfied that the facility meets the pollution emission criteria established by the department of health, certify to that fact. Upon receipt of the certification from the department of health, the director of taxation shall exempt the facility from the tax imposed by this chapter. A new certificate shall be obtained from the director of health and filed with the director of taxation every two years certifying that the pollution control facility complies with the pollutant emission criteria established by the department of health. The director of taxation shall furnish all forms required by this section.

The director of taxation shall, pursuant to chapter 91, promulgate rules and regulations necessary to administer this section."

SECTION 4. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 5. Sections 1 and 2, upon their approval, shall be effective for taxable years beginning on or after January 1, 1971. Section 3, upon its approval, shall be effective for taxable years beginning July 1, 1971.

(Approved June 22, 1970.)

ACT 135

S. B. NO. 1136-70

A Bill for an Act Making an Appropriation for the Preparation of a Plan Relating to the Preservation of Open Space in Hawaii.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,000.00, or so much thereof as may be necessary, to develop a statewide comprehensive open space plan. This plan will include the intensive studies of existing conditions, influences, implementing methods and techniques and policy matters in providing for public use or enjoyment of certain lands for open space purposes.

The plan will formulate appropriate recommendations, based on its find-

* Edited accordingly

ACT 136

ings, to insure desirable open space land uses within the State. The findings and recommendations will consider fee and less than fee acquisition methods in meeting its objectives. Among these considerations shall be techniques including: (1) legislation; (2) fee acquisition; (3) fee acquisition with resale subject to easements; (4) delayed purchase with resale subject to easements; (5) official mapping and contingent purchases; (6) acquisition of development rights; (7) improved zoning regulations; (8) compensable regulations.

SECTION 2. The sum appropriated shall be expended for the purpose herein specified by the department of planning and economic development.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 22, 1970.)

ACT 136

S. B. NO. 1139-70

A Bill for an Act Relating to the Land Use Law.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 205-6, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 205-6. Special permit. The county planning commission may permit certain unusual and reasonable uses within agricultural and rural districts other than those for which the district is classified. Any person who desires to use his land within an agricultural or rural district other than for an agricultural or rural use, as the case may be, may petition the planning commission of the county within which his land is located for permission to use his land in the manner desired.

The planning commission shall conduct a hearing within a period of not less than thirty nor more than one hundred twenty days from the receipt of the petition. The planning commission shall notify the land use commission and such persons and agencies that may have an interest in the subject matter of the time and place of the hearing.

The planning commission may under such protective restrictions as may be deemed necessary, permit the desired use, but only when the use would promote the effectiveness and objectives of this chapter. The planning commission shall act on the petition not earlier than fifteen days after the public hearing. A decision in favor of the applicant shall require a majority vote of the total membership of the planning commission which shall be subject to the approval of the land use commission, provided that the land use commission may impose additional restrictions as may be necessary or appropriate in granting such approval, including the adherence to representations made by the applicant. A copy of the decision together with the findings shall be transmitted to the commission within ten days after the decision is rendered. Within forty-five days after receipt of the county agency's decision, the commission shall act to approve, approve with modification, or deny the petition. A denial either by the county agency or by the commission, or a modification by the commission, as the case may be, of the desired use shall be appealable to the circuit court of

the circuit in which the land is situated and shall be made pursuant to the Hawaii Rules of Civil Procedure.”

SECTION 2. Chapter 205, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . SHORELINE SETBACKS.

Sec. 205- . Definitions. As used in this part, unless the context otherwise requires:

- (1) ‘Agency’ means the planning department of each county.
- (2) ‘Shoreline’ means the upper reaches of the wash of waves, other than storm and tidal waves, usually evidenced by the edge of vegetation growth, the upper line of debris left by the wash of waves.
- (3) ‘Shoreline setback’ means all of the land area between the shoreline and the shoreline setback line.
- (4) ‘Shoreline setback area’ means all the land area seaward of the shoreline setback line.
- (5) ‘Shoreline setback line’ means that line established by the State land use commission or the county running inland from and parallel to the shoreline at a horizontal plane.

Sec. 205- . Duties and powers of the commission and agency. The commission shall establish setbacks along shorelines of not less than twenty feet and not more than forty feet inland from the upper reaches of the wash of waves other than storm and tidal waves. The agency shall promulgate rules and regulations within a period of one year after the effective date of this Act, pursuant to chapter 91, and shall enforce the shoreline setbacks and rules and regulations pertaining thereto.

Sec. 205- . Prohibitions. (a) It shall be unlawful to remove sand, coral, rocks, soil, or other beach compositions for any purpose, except for reasonable domestic, non-commercial use, within the shoreline setback area, except that any sand mining operation which has been legally in operation for a period of at least two years immediately prior to the effective date of this Act, may be continued for a period not to extend beyond July 1, 1975. However, if during the period prior to July 1, 1975, the sand mining operation is substantially increased, it shall be unlawful to further continue such mining operation.

(b) Except as otherwise provided in this part, no structure or any portion thereof, including but not limited to seawalls, groins, and revetments, shall be permitted within the shoreline setback area; provided that any lawful nonconforming structure existing on the effective date of this Act shall be permitted; provided further that any structure which is necessary for safety reasons or to protect the property from erosion or wave damages shall be permitted. A structure not conforming to this section but for which a building permit application has been filed on or before the effective date of this Act, shall also be permitted

as a nonconforming structure, subject to the ordinances and regulations of the particular county.

(c) Any nonconforming structure, including but not limited to residential dwellings, agricultural structures, seawalls, groins, and revetments may be replaced or reconstructed within the shoreline setback area; provided that no nonconforming structure shall be substantially enlarged or changed to another nonconforming use within the shoreline setback area. If the use of any nonconforming structure is discontinued or held in abeyance for a period of one year, the further continuation of such use shall be prohibited.

Sec. 205- . Shoreline setback lines established by county. The several counties through ordinances may require that shoreline setback lines be established at a distance greater than that established by the commission.

Sec. 205- . Functions of agency. (a) The agency shall administer the provisions of this part. It shall review the plans of all applicants who propose any structure, activity, or facility which otherwise would be prohibited by this part.

The agency may require that the plans be supplemented by accurately mapped data showing natural conditions and topography relating to all existing and proposed structures, buildings and facilities.

The agency may also require reasonable changes in the submitted plans in order to obtain optimum compliance practicable.

(b) After reviewing the plans, the agency shall transmit the plans with its recommendations to the governmental body of the county authorized to grant variances from zoning requirements. Such governmental body shall grant a variance for such structure, activity, or facility if, after a hearing pursuant to chapter 91, it finds in writing, based on the record presented either: (1) that such structure, activity, or facility is in the public interest; or (2) that hardship will be caused to the applicant if the proposed structure, activity, or facility is not allowed on that portion of the land within the shoreline setback. Any variance granted may be subject to such conditions as will cause the structure, activity, or facility to result in a minimum interference with natural shoreline processes. Such governmental body shall render written approval or disapproval within 45 days after the hearing on the applicant's plans, unless such period is extended by written agreement between the governmental body and the applicant.

Sec. 205- . Exemptions. Tunnels, canals, basins, and ditches, together with associated structures used by public utilities as the term is defined in section 269-1, wharves, docks, piers and other harbor and water front improvements and any other maritime facility and water sport recreational facilities may be permitted within the shoreline setback area; provided that the plans therefor are submitted for review and are approved by the agency after a public hearing has been held and that the appropriate State body has found that the proposed structures will result only in a minimum interference with natural shoreline processes; provided further that any such structure constructed by a governmental body shall be exempt from the provisions of this part except as to the requirement that two public hearings shall be held by the governmental

body charged with such construction, once when the project is first conceived and again when the project is substantially designed and planned, but prior to the letting of the contract.

Sec. 205- . Conflict of other laws. In case of a conflict between the requirements of any other State law or county ordinance regarding shoreline setbacks, the more restrictive requirements shall apply in furthering the purposes of this part. Nothing herein contained shall be construed to diminish the jurisdiction of the State department of transportation over wharves, airports, docks, piers, small boat, or other harbors, and any other maritime or water sports recreational facilities to be constructed on State land by the State; provided that such plans are submitted for the review and information of the officer of the respective agency charged with the administration of the county zoning laws, and found not to conflict with any county ordinances, zoning laws, and building code."

SECTION 3. If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 5. This Act shall take effect upon its approval.
(Approved June 22, 1970.)

ACT 137

S. B. NO. 1157-70

A Bill for an Act Creating the Position of a Marine Affairs Coordinator in the Office of the Governor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Findings and declaration of necessity. The legislature finds that:

- (a) The marine environment is one of Hawaii's most valuable assets. It has shaped the uniqueness of the way of life in Hawaii, and it has contributed to the major elements of the State's economy. Hawaii can secure even greater benefits from the judicious use of the resources in and around the sea if it energetically coordinates the development of technology needed to exploit these resources, the promotion of marine businesses, and the establishment of programs dedicated to a better understanding and knowledge of the marine environment.
- (b) There is a need for a planned and concerted effort to explore and develop to their fullest potential the vast, under-utilized resources of the Pacific Ocean. In view of its mid-Pacific location, unique oceanographic environment and other advantages, Hawaii can take the lead in fostering the development of the ocean's resources, consistent with

* Edited accordingly

State and national goals of economic growth, international development assistance, and cooperation with neighbors in the Pacific basin.

- (c) The development and utilization of marine resources require the deep involvement of state government. Responsibilities and authorities already exist in the various agencies of state government to address many of the opportunities and problems that may arise in marine affairs in the foreseeable future. However, there is no mechanism to bring a unified and coordinated approach to marine activities that cut across the responsibilities of the various agencies of state government.
- (d) If Hawaii is to capitalize on the immediate and long-term opportunities for the fullest development and utilization of marine resources, it is essential that the total efforts of the State in the planning, research, development, and promotion of the marine environment must be effectively coordinated. The marine programs in existence and those being planned require a mechanism in the state government to bring about the most effective and efficient use of resources in developing the marine environment. This mechanism can best be provided through the establishment of a marine affairs coordinator in state government at a level which will make possible the coordinated management of all marine activities.

SECTION 2. Establishment of marine affairs coordinator. The position of marine affairs coordinator is established in the office of the governor. The governor shall appoint and remove the coordinator, who shall not be subject to chapters 76 and 77. The salary of the coordinator shall be set by the governor and shall not be more than the salary of first deputies or first assistants to department heads as prescribed by section 26-53. The coordinator shall be included in any benefit program generally applicable to the officers and employees of the State.

SECTION 3. Powers and duties. Subject to the governor's approval, the coordinator shall:

- (a) Develop plans, including objectives, criteria to measure accomplishment of objectives, programs through which the objectives are to be attained, and financial requirements for the total and optimum development of Hawaii's marine resources;
- (b) Conduct systematic analysis of existing and proposed marine programs, evaluate the analysis conducted by the agencies of state government and recommend to the governor and to the legislature programs which represent the most effective allocation of resources for the development of the marine environment;
- (c) Assist those departments having interests in marine affairs, coordinate those activities which involve the responsibilities of multiple State agencies, and insure the timely and effective implementation of all authorized marine projects and programs;

- (d) Establish a continuing program for informing the federal government, other state governments, governments of nations with interests in the Pacific basin, private and public organizations involved in marine science and technology, and commercial enterprises of Hawaii's leadership potential as the center for marine affairs;
- (e) Coordinate the State's involvement in national and international efforts to investigate, develop and utilize the marine resources of the Pacific basin;
- (f) Develop programs to continuously encourage private and public marine exploration and research projects which will result in the development of improved technological capabilities in Hawaii;
- (g) Formulate specific program and project proposals to solicit increased investment by the federal government and other sources to develop Hawaii's marine resources and coordinate the preparation and submission of program and project proposals of State agencies;
- (h) Serve as consultant to the governor, State agencies and private industry on matters related to the preservation and enhancement of the quality of Hawaii's marine environment;
- (i) Perform such other services as may be required by the governor and the legislature;
- (j) Contract for services when required for implementation of this Act; and
- (k) Prepare and submit an annual report to the governor and to the legislature on the implementation of this Act and all matters related to marine affairs.

SECTION 4. Appropriations. There is appropriated from the general revenues of the State of Hawaii the sum of \$470,000, or so much thereof as may be necessary, to be expended by the marine affairs coordinator for the following purposes:

- (a) \$30,000 for the planning and coordination of activities to hold an international marine exposition in Hawaii in 1976;
- (b) \$75,000 for the preparation and publication of a detailed atlas defining and tabulating Hawaii's marine resources;
- (c) \$25,000 for the planning, coordination and convening of a conference in Hawaii of the representatives of government, science, technology, and industry from the nations of the Pacific basin to plan the Pacific region portion of the international decade of ocean exploration;
- (d) \$50,000 for the development of preliminary plans for marine science research parks;
- (e) \$100,000 for a pilot marine resources survey of the area within boundaries set at Koko Head and the north margin of Kahana Bay on the

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island of Oahu, provided that State funds shall be matched equally by private industry and by more than twice the amount by funds provided by the federal government;

- (f) \$190,000 for the survey, research, development, and promotion of Hawaii's marine resources by private industry, provided that any expenditure of State funds shall be matched by an equal amount from private industry.

SECTION 5. This Act shall take effect upon its approval.
(Approved June 22, 1970.)

ACT 138

S. B. NO. 1405-70

A Bill for an Act Relating to Pollution Control and Making an Appropriation Therefor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. In addition to any money appropriated in the general appropriations Act, the sum of \$325,911, or so much thereof as may be necessary, is appropriated out of the general revenues of the State of Hawaii to the department of health as follows:

Air Sanitation for air pollution control	\$119,984
Occupational and Radiological Health for community noise control	\$ 32,191
Sanitary Engineering for water pollution control	\$173,736

SECTION 2. This Act shall take effect on July 1, 1970.
(Approved June 22, 1970.)

ACT 139

S. B. NO. 1971-70

A Bill for an Act Relating to Preservation of Natural Resources by Providing for a System of Natural Areas.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter thereto to be appropriately numbered and to read:

“CHAPTER

NATURAL AREA RESERVES SYSTEM

Sec. . Findings and declaration of necessity. The legislature finds and declares that (1) the State of Hawaii possesses unique natural resources, such as geological and volcanological features and distinctive marine and terrestrial plants and animals, many of which occur nowhere else in the world, that are highly vulnerable to loss by the growth of population and technology; (2) these unique natural assets should be protected and preserved, both for the enjoy-

ment of future generations, and to provide base lines against which changes which are being made in the environments of Hawaii can be measured; (3) in order to accomplish these purposes the present system of preserves, sanctuaries and refuges must be strengthened, and additional areas of land and shoreline suitable for preservation should be set aside and administered solely and specifically for the aforesaid purposes; and (4) that a statewide natural area reserves system should be established to preserve in perpetuity specific land and water areas which support communities, as relatively unmodified as possible, of the natural flora and fauna, as well as geological sites, of Hawaii.

Sec. . Definitions. As used in this chapter, unless otherwise indicated by the context:

‘Department’ means the department of land and natural resources.

‘Commission’ means the natural area reserves system commission.

‘Natural reserve area’ means an area designated as a part of the Hawaii natural area reserves system, pursuant to criteria established by the commission.

Sec. . Hawaii natural area reserves system. There shall be a Hawaii natural area reserves system, hereinafter called the ‘reserves system’, which shall consist of areas in the State of Hawaii which are designated in the manner hereinafter provided as natural area reserves. The reserve system shall be managed by the department of land and natural resources.

Sec. . Powers of the department. The department of land and natural resources may designate and bring under its control and management, as part of the reserves system any and various areas as follows:

(1) State of Hawaii owned land under the jurisdiction of the department may be set aside as a natural area reserve by resolution of the department, subject to the approval of the governor by executive order setting the land aside for such purposes.

(2) New natural area reserves may be established:

(A) By gift, devise or purchase;

(B) By eminent domain pursuant to chapter 101; or

(C) By the setting aside of State of Hawaii owned land for such purposes by the governor, as provided by section 171-11, Hawaii Revised Statutes.

Sec. . Rules and regulations. (a) The department of land and natural resources may, subject to chapter 91, make, amend and repeal rules and regulations having the force and effect of law, governing the use, control and protection of the areas included within the reserves system, provided, that no rule or regulation which relates to the permitted use of any area assigned to the reserves system shall be valid and no use of any such area shall be permitted un-

less such rule or regulation or permitted use shall have been specifically approved by the natural area reserves system commission.

(b) The department may confer upon such of its employees as it deems reasonable and necessary the powers to serve and execute warrants and arrest offenders or issue citations in all matters relating to the enforcement within the reserves system of the law and rules and regulations applicable thereto.

Sec. . Natural area reserves system commission. There shall be a natural area reserves system commission, hereinafter called the 'commission'. The commission shall consist of eleven members who shall be appointed in the manner and serve for the term set in section 26-34. Six of the members of the commission shall be persons possessing scientific qualifications as evidenced by an academic degree in wildlife or marine biology, botany, forestry, zoology or geology. The chairman of the board of land and natural resources, the superintendent of education, the director of planning and economic development, the chairman of the board of agriculture and the president of the university of Hawaii, or their designated representatives, shall serve as ex-officio voting members. The governor shall appoint the chairman from one of the appointed members of the commission. The members shall receive no compensation for their services on the commission but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge of their duties.

The commission shall be a part of the department of land and natural resources for administration purposes as provided in section 26-35, Hawaii Revised Statutes.

Any action taken by the commission shall be by a simple majority of its members. Six members of the commission shall constitute a quorum to do business.

The commission may engage employees necessary to perform its duties, including administrative personnel, as provided by section 26-35, Hawaii Revised Statutes.

The commission shall adopt rules guiding its conduct and shall maintain a record of its activities and actions.

Sec. . Powers and duties. The commission shall:

- (1) Recommend criteria to be used in determining whether an area is suitable for inclusion with the reserves system;
- (2) Conduct studies of areas for possible inclusion within the reserves system;
- (3) Recommend to the governor and the department of land and natural resources areas suitable for inclusion within the reserves system;
- (4) Recommend policies regarding required controls and permitted uses of areas which are part of the reserves system;
- (5) Advise the governor and the department of land and natural resources on any matter relating to the preservation of Hawaii's unique natural resources; and

- (6) Develop ways and means of extending and strengthening presently established preserves, sanctuaries and refuges within the State.

Sec. . Penalty. Any person who violates any of the laws and rules and regulations applicable to the reserves system shall be fined not more than \$100 or imprisoned not more than 30 days, or both, for each offense."

SECTION 2. There is appropriated out of the general revenues of the State the sum of \$60,000, or so much thereof as may be necessary, to the department of land and natural resources to be expended for the purposes of this Act.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 22, 1970.)

ACT 140

S. B. NO. 1745-70

A Bill for an Act Relating to Parks and Playgrounds for Subdivisions.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 46-6, Hawaii Revised Statutes, is amended to read:

"Sec. 46-6. Parks and playgrounds for subdivisions.

(a) Except as hereinafter provided, each county shall adopt ordinances to require a subdivider, as a condition precedent to approval of a subdivision, to provide land in perpetuity or to dedicate land, together with facilities, for park and playground purposes, for the use of purchasers or occupants of lots or units in subdivisions. The ordinances may prescribe the instances when land shall be provided in perpetuity or dedicated, the area, location, grade, and other state of the sites so required to be provided or dedicated and the minimum physical facilities required. In addition thereto, such ordinances may prescribe penalties or other remedies for violation of such ordinances.

(b) In lieu of providing land in perpetuity or dedicating land, together with facilities, the ordinances may permit a subdivider pursuant to terms and conditions set forth therein to:

- (1) Pay to the county a sum of money equal to the value of land and facilities he would otherwise have had to provide or dedicate;
- (2) Combine the payment of money with land to be provided or dedicated, the total value of such combination being not less than the total value of the land and facilities he would otherwise have had to provide or dedicate.

The method of valuation of land and facilities where money payments are made shall be prescribed by the ordinances. The ordinances shall also provide that such money shall be used for the purpose of providing park and playground facilities for the use of purchasers or occupants of lots or units in the subdivision.

(c) Pursuant to terms, conditions and limitations specified by the ordinances, a subdivider may receive credit:

- (1) For privately-owned and maintained parks and playgrounds, including physical facilities;
- (2) For lands dedicated or provided for park and playground purposes prior to the effective date of the ordinances.

(d) Upon the provision of land in perpetuity or the dedication of land by the subdivider as may be required under this section, the county concerned shall thereafter assume the cost of improvements and their maintenance, and the subdivider shall accordingly be relieved from such costs.

(e) The ordinances adopted pursuant to this section may provide, where special circumstances, conditions and needs within the respective counties so warrant, for such exemptions and exclusions as the councils of the respective counties may deem necessary or appropriate and may also prescribe the extent to and the circumstances under which the requirements therein shall or shall not be applicable to subdivisions.

(f) For purposes of this section certain terms used herein shall be defined as follows:

- (1) 'Approval' means the final approval granted to a proposed subdivision where the actual division of land into smaller parcels is sought, provided that, where construction of a building or buildings is proposed without further subdividing an existing parcel of land, the term 'approval' shall refer to the issuance of the building permit.
- (2) 'Dwelling unit' means a room or rooms connected together, constituting an independent housekeeping unit for a family and containing a single kitchen.
- (3) 'Lodging unit' means a room or rooms connected together, constituting an independent housekeeping unit for a family which does not contain any kitchen.
- (4) 'Parks and playgrounds' means areas used for active or passive recreational pursuits.
- (5) 'Subdivider' means any person who divides land as specified under the definition of subdivision or who constructs a building or group of buildings containing or divided into three or more dwelling units or lodging units.
- (6) 'Subdivision' means the division of improved or unimproved land into two or more lots, parcels, sites, or other divisions of land and for the purpose, whether immediate or future, of sale, lease, rental, transfer of title to, or interest in, any or all such lots, parcels, sites, or division of land. The term includes resubdivision, and when appropriate to the context, shall relate to the land subdivided. The term also includes a building or group of buildings, other than a hotel, containing or divided into three or more dwelling units or lodging units."

SECTION 2. Material to be repealed is bracketed. New material is un-

derscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. The Act shall take effect upon its approval.
(Approved June 22, 1970.)

ACT 141

H. B. NO. 340

A Bill for an Act Relating to Air Pollution Control.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The phrase "air pollution" defined in Section 322-61, Hawaii Revised Statutes, is amended to read as follows:

"Air pollution" means the presence in the outdoor atmosphere of substances in quantities and for durations which endanger human health or welfare, plant or animal life or to property or which unreasonably interfere with the comfortable enjoyment of life and property through the State and in such areas of the State as shall be affected thereby and excludes all aspects of employer-employee relationship as to health and safety hazards. Such substances include, but are not limited to smoke, charred paper, dust, soot, grime, carbon, noxious acids, fumes, gases, odors, particulate matter or any combination thereof.

SECTION 2. Section 322-72, Hawaii Revised Statutes, is amended to read as follows:

"Any private person or agency who violates any of the rules or regulations promulgated by the department shall be fined not more than \$500. Each day of violation shall constitute a separate offense. The department may institute legal proceedings in the name of the State to recover the penalty, which shall be a government realization."

SECTION 3. This Act shall take effect upon its approval.
(Approved June 22, 1970.)

ACT 142

H. B. NO. 629

A Bill for an Act Making an Appropriation for a Public Park at Anuenue, Oahu.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is hereby appropriated out of moneys in the treasury received from general obligation bond funds the sum of \$1,000,000 or so much thereof as may be necessary, for the plans and the construction of a beach park at Anuenue, of not less than 140 acres nor more than 250 acres, said beach park to be situated within the area extending along the shoreline between the Coast Guard facility to the Sand Island Access Road.

SECTION 2. The director of finance is authorized to issue general obligation bonds of the State in the amount of \$1,000,000 to be used for the purposes of this Act.

* Edited accordingly

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SECTION 3. The sum appropriated herein shall be expended by the department of land and natural resources.

SECTION 4. This Act shall take effect on July 1, 1970.

(Approved June 22, 1970.)

ACT 143

H. B. NO. 1291-70

A Bill for an Act Relating to Water Pollution.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 321-16, Hawaii Revised Statutes, is amended to read as follows:

“Section 321-16. Sanitation; drainage, water systems, sewage, penalty, etc. To the extent and insofar as their sanitary or physical condition affects or may affect the public health, safety, or welfare, and except as may be otherwise provided by the Constitution of the State, the director of health may regulate, supervise, and control all waters within the State, drainage, drainage waters, drainage ditches and systems, water supplies, water systems or plants, sewage outfall areas, and sewage or refuse systems or plants, or the disposal of any sewage, garbage, feculent matter, offal, filth, refuse, any animal, mineral, or vegetable matter or substance, or any liquid, gaseous, or solid substance into any waters of the State as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety, or welfare, including harm, detriment, or injury to public water supplies, fish, and aquatic life and wildlife, recreational purposes and agriculture, industrial, and other legitimate uses of such waters. In connection therewith the director may appoint a master or masters to conduct investigations and to hold hearings. In order to effectuate a comprehensive program for the prevention, control, and abatement of pollution of the waters of the State including shore waters, such master or masters shall divide such waters into areas and shall recommend standards of water quality for such waters according to their present and future best uses. Upon adoption of the recommendations by the director, as submitted by the master or as modified by the director, it shall be unlawful for any person, including any public body, to use such waters for the disposal of the above listed matter or substance without first securing approval in writing from the director.

No person, firm, corporation, public utility, county, or other public body or commission or board shall establish, extend, or alter any system of drainage, sewage, or water supply, or undertake any project in sewage outfall areas where there may be a possibility of alteration of oceanographical currents depended upon for dilution until it has the same approved in writing by the director. For the proper exercise and execution of the foregoing powers the director may consult with and advise any such owner or applicant, having or proposing to have or to alter or to extend any water supply, drainage, or sewage system or plant to the end that the health, safety, and welfare of the public would be protected. He may also consult with and advise any person, firm, corporation, public utility, or other public body, commission, or board engaged in or in-

tending to be engaged in any business or undertaking whose sewage or drainage may tend to pollute water or whose operations may in any way affect the health, safety, or welfare of the public.

He may conduct such experiments or make such investigations as he may deem necessary to the proper determination of the purity and potability of water and for the prevention of the pollution of the same, or to effect the proper disposal of sewage, drainage, and waste. He may require a complete and detailed plan, description and history of the existing works, system, or plant and of any proposed addition to, modification or alteration of any such works, system, or plant, which plan shall be in such form and contain such information as the director may prescribe and shall be furnished at the cost and expense of the owner or applicant. The director may also require a report, in such form and containing such information as the director may prescribe, on the condition and operation of such works, system, or plant, which report shall be made by some competent person acceptable to the director at the expense of such owner or applicant. This section shall not be deemed to apply to or affect any person, firm, corporation, public utility, county or other public body or commission or board engaged strictly in the production and distribution of domestic water in the establishing, operation, extension, modification, or alteration of any water system or water plant for which there is regularly employed a sanitary engineer duly licensed under Chapter 464.

The director shall have the power to adopt, promulgate, and enforce rules and regulations for the execution of his powers and duties under this section.

The director may apply to any court of competent jurisdiction to enjoin any violation of this section or of any rule or regulation promulgated under this section.

Any person who willfully violates this section or any of the rules or regulations promulgated under this section shall be fined not more than \$500. Each day of violation shall constitute a separate offense. The department may institute legal proceedings in the name of the State to recover the penalty, which shall be a government realization."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 22, 1970.)

ACT 144

H. B. NO. 1293-70

A Bill for an Act Relating to a State Plan for Waste Disposal.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

* Edited accordingly

"CHAPTER

HAWAII WASTE MANAGEMENT

Sec. -1. Findings and purpose. The legislature finds that existing waste disposal practices in the State are improper and inadequate and create public health hazards and nuisances that are offensive to the public, pollute the environment, and cause economic loss. The purpose of this chapter is to provide for the establishment and operation of a program for waste management, including cooperative planning by the State and county governments, State technical and financial assistance to the counties and utilization of private enterprise.

Sec. -2. Definitions. As used in this chapter, unless the context otherwise requires:

- (1) "Commission" means the waste advisory commission.
- (2) "Department" means the State department of health.
- (3) "University" means the university of Hawaii.

Sec. -3. Waste advisory commission. There is established within the department of health for administrative purposes a waste advisory commission consisting of not less than fifteen nor more than twenty-one members. The director of health or his representative shall be chairman. The director of planning and economic development, director of transportation, director of land and natural resources, chairman of the board of agriculture and the president of the university, or their respective representative shall serve as ex officio voting members of the commission. The mayor of each county shall appoint a county member to the commission representing the county departments of public works, planning, or water supply, or their equivalent department in the respective counties, whose term shall be determined by the respective mayor. The remaining members shall be appointed by the governor as provided in section 26-34, and shall be selected from agricultural, industrial, labor and conservation interests.

The members of the commission shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties. The department may employ such personnel as it finds necessary for the performance of its functions. The employees shall be subject to Chapter 76 and 77.

Sec. -4. Waste management plan. The department shall prepare a waste management plan which shall be submitted to the commission for its review prior to July 1, 1971 and which shall become effective not later than January 1, 1972. The plan shall be annually reviewed by the commission. Any amendments to the plan shall be reviewed at least one month prior to the effective date of the amendment.

Sec. -5. Powers and duties of the department. The department shall:

- (1) Review plans and progress in implementation of waste disposal oper-

ations and management by the State and the counties, and make recommendations in connection therewith;

- (2) Recommend priorities for the allocation of State, federal, and private funds among the counties for waste disposal programs and projects;
- (3) Coordinate planning of public and private agencies for waste management in the State; and
- (4) Recommend legislation and administrative rules and regulations to the State and county governments for the improvement of waste management, including recommendations for the establishment of standards, rating methods, and guidelines.
- (5) Inspect waste disposal practices and facilities throughout the State;
- (6) Adopt rules and regulations pursuant to chapter 91, necessary for the purposes of this chapter;
- (7) Set design and performance standards for waste collection and disposal practices, facilities, and sites;
- (8) Provide technical assistance to other State departments and county governments;
- (9) Cooperate with federal agencies, the commission, other State departments, county governments, and private organizations in implementing the State and county waste management plans; and

Sec. -6. Training of personnel. The university shall conduct courses for training personnel for waste management system and shall prepare research, demonstration projects, and studies in the field of waste management.

Sec. -7. Grants to State departments and to counties. The department may make grants to other State departments and to the counties from State, federal, or private funds made available to it for the implementation of the waste management plans and programs."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 22, 1970.)

ACT 145

H. B. NO. 1515-70

A Bill for an Act Making an Appropriation for a Study Relating to the Fixing of Financial and Criminal Responsibility for Damages Resulting from Oil Spills.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Findings and declaration of necessity. The legislature hereby finds and declares that: (a) oil spills can cause considerable and costly damage to Hawaii's beach and harbor areas and marine environment; (b) there is presently no adequate law fixing financial responsibility or criminal responsibility for damage resulting from oil spills at sea or on land where oil may

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eventually enter the sea and providing a substantial penalty therefor; and (c) there is a need for a study related to the imposition of sanction for the discharge of oil where it will damage the marine environment or the beach or harbor areas of the State of Hawaii, and for suggested legislation to fix liability and impose substantial sanctions.

SECTION 2. Appropriation. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,000, or so much thereof as may be necessary, for a study relating to the fixing of financial and criminal responsibility for damages resulting from oil spills and to recommend legislation that would establish criminal liability and provide substantial penalties.

SECTION 3. Expending agency. The sum appropriated shall be expended by the department of attorney general for the purposes of this Act.

SECTION 4. Effective date. This Act shall take effect upon its approval.

(Approved June 22, 1970.)

ACT 146

H. B. NO. 1900-70

A Bill for an Act Relating to Acoustic Noise Control of Existing School Facilities and New School Facilities To Be Constructed in Areas Affected by Aircraft, Traffic, and Other Noise.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Purpose and Findings. The purpose of this bill is to provide for acoustic noise control and air conditioning of existing classrooms, libraries, other educational facilities, as well as new school facilities to be built, in areas where aircraft, traffic, and other noise impede the educational process. In order for effective communication and learning to take place there must exist an acceptable acoustical environment. However, certain schools are situated in areas where acoustic noise has reached, or can reasonably be expected to reach, levels where it interferes with effective classroom instruction.

SECTION 2. Chapter 103, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 103- Noise control at School Facilities. The department of education shall plan for and request appropriations necessary to implement acoustic noise control and air conditioning of existing and new school facilities in areas affected by aircraft, traffic, and other noise. The department of education shall develop criteria for deciding whether acoustic noise control and air conditioning of existing and new school facilities are required for effective classroom instruction. In all cases where acoustic treatment of school facilities is planned, the department of education shall utilize the services of individuals qualified by training and experience to recommend appropriate noise control procedures and components. Acoustic noise control and air conditioning shall be given equal weight as all other factors in the criteria used by the department of education in setting priorities for school construction and renovations."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect on July 1, 1970.

(Approved June 22, 1970.)

ACT 147

H. B. NO. 2046-70

A Bill for an Act Relating to Excessive Noise.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 322 of the Hawaii Revised Statutes is amended by adding a new part to read as follows:

"PART EXCESSIVE NOISE

Section 322- . Definitions. As used in this part, unless the context otherwise requires.

"Department" means the State department of health.

"Excessive Noise" means sound which is injurious or which unreasonably interferes with the comfortable enjoyment of life and property in the State or in such areas of the State as shall be affected thereby.

"Committee" means the county advisory noise control committee.

Section 322- . Powers; rule-making. The department shall, pursuant to chapter 91, adopt such rules and regulations, including standards of excessive noise relating to the various sources thereof, for different areas of the State, as are necessary to prohibit or control excessive noise caused by any person. No such rule or regulation, or any amendment thereto, shall be effective until sixty days after the adoption thereof and after the publication thereof in a newspaper of general circulation in the area of the State affected thereby.

Section 322- . Fees. The department may establish fees for the issuance of permits which fees shall not exceed the estimated cost of issuing such permits and any inspection pertaining thereto. Such fees shall revert to the general fund.

Section 322- . County advisory noise control committee. (a) The department may organize a county advisory noise control committee in any county in which it shall determine that the establishment of such committee is advisable to assist it in carrying out the purposes of this part. The committee shall consist of not more than seven members, a majority of whom shall not be officers or employees of the State, county, or federal governments, who shall be appointed by the department and shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performances of their duties.

(b) The committee shall study excessive noise problems of the county, and advise the department relative thereto.

(c) All rules or regulations of strictly local application, before they are adopted by the department, shall be submitted to the committee if one shall

* Edited accordingly

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have been appointed for the county affected, for discussion and, within thirty days after submission, a report thereon.

Section 322- . Cease and desist orders. If, after a hearing in accordance with chapter 91, the department shall determine that any person is violating this part or any rule or regulation thereunder, the department may order that such person, within a reasonable time fixed by the department, cease and desist from such violation. The department may institute a civil action in any court of competent jurisdiction for the enforcement of any such order.

Section 322- . Injunctive relief. The department may institute a civil action in any court of competent jurisdiction for injunctive relief to prevent any violation of this part or any rule or regulation made thereunder.

Section 322- . Misdemeanor. Whoever wilfully and knowingly makes or causes to be made any excessive noise in violation of this part or in violation of any rule or regulation of the department shall be guilty of a misdemeanor and shall be fined not more than \$500 or imprisoned not more than six months, or both, except as otherwise provided by law.

Section 322- . Other actions not barred. No existing civil or criminal remedy for any wrongful action which is a violation of any rule or regulation of the department shall be excluded or impaired by this part.

Section 322- . Effect on laws, ordinances, rules, and regulations. (a) All laws, ordinances, rules, and regulations inconsistent with this part shall be void and of no effect; provided that all laws, ordinances, rules and regulations relating to noise control in effect on the effective date of this Act shall remain in effect for any area of the State with respect to which rules of the department of health adopted pursuant to this part are not in effect.

(b) No county shall adopt an ordinance, rule or regulation relating to noise control after the effective date of this Act.

Section 322- . Enforcement by state and county authorities. All county health authorities, sheriffs and police officers, and all other officers and employees of the State and every county thereof shall enforce the rules, regulations and orders of the department.

Section 322- Severability. If any provision of this part or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the part which can be given effect without the invalid provision or application, and to this end the provisions of this part are declared to be severable."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 22, 1970.)

ACT 148

H. B. NO. 1308-70

A Bill for an Act Relating to Place of Imprisonment of Persons Convicted of Felony.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 711-83, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 711-83 Sentence, felons; imprisonment where. In all cases in which a person is convicted of a felony and is sentenced to imprisonment, he shall be committed by the court to the director of social services for placement within the correctional facilities of the department. As to each such person, the court shall determine the initial place of confinement and the director shall determine the proper program of redirection and any subsequent place of confinement best suited to meet the individual needs of the committed person. The director shall be charged by such commitments with the execution of all orders for the custody, placement, and safekeeping of the prisoner."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 23, 1970.)

ACT 149

H. B. NO. 1321-70

A Bill for an Act Relating to In-Service Training and Scholarships for Public Officers and Employees, and Making an Appropriation Therefor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 81-5, Hawaii Revised Statutes, is amended to read as follows:

"Section 81-5 Financing of operations. Revenues necessary for the operation of the center may be provided through the charging of tuition or such other fees as may be necessary to operate center programs for services rendered to participating agencies and shall be made part of a revolving fund. The center may receive donations, gifts and allotments from other agencies, public and private, domestic and foreign, which are to be used at the discretion of the director of the center to further the purposes of the center."

SECTION 2. There is hereby appropriated out of the general funds of the State of Hawaii the sum of \$145,000, or so much thereof as may be necessary, to the university of Hawaii to carry out the functions of the center for governmental development located at the university of Hawaii.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 23, 1970.)

* Edited accordingly

A Bill for an Act Relating to Minimum Sentencing by the Board of Paroles and Pardons.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Within one year after the effective date of this Act, the board of paroles and pardons shall undertake a comprehensive review of the minimum sentences of all prisoners sentenced prior to the effective date of Act 264, Session Laws of Hawaii 1967, and shall refix the minimum sentences of such prisoners, subject to the approval of the governor. In determining new minimum sentences pursuant to this Act, the board shall not consider the conduct of any prisoner subsequent to his incarceration and shall refix the minimum term of each prisoner as if he were a new prisoner. In no event shall the minimum sentence of any prisoner be increased, and the rehabilitative policies currently employed in fixing minimum sentences of all prisoners shall be followed in refixing minimum sentences pursuant to this Act. The governor may delegate his authority to approve or disapprove a sentence refixed by the board to the director of social services in any particular case, class of cases or all cases.

SECTION 2. Whenever a minimum sentence is refixed pursuant to this Act, it shall be further reduced by any reductions in sentence earned by the prisoner concerned under the provisions of Sections 353-39, 353-44, 353-45 and 353-46, Hawaii Revised Statutes.

SECTION 3. This Act is applicable only to the refixing of certain minimum sentences within one year of its effective date as set forth in Section 1, and nothing in this Act shall be construed as in any way affecting the procedures established by law for refixing minimum sentences generally.

SECTION 4. This Act shall take effect upon its approval.
(Approved June 23, 1970.)

A Bill for an Act Relating to Airports.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 261, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read:

"Section 261- . Arrest or citation. Except when required by State law to take immediately before a magistrate a person arrested for a violation of any provision of this chapter, including any rule or regulation adopted and promulgated pursuant to this chapter, any person authorized to enforce the provisions of this chapter, hereinafter referred to as enforcement officer, upon arresting a person for violation of any provision of this chapter, including any rule or regulation adopted and promulgated pursuant to this chapter shall, in the discretion of the enforcement officer, either (1) issue to the purported violator a sum-

mons or citation, printed in the form hereinafter described, warning him to appear and answer to the charge against him at a certain place and at a time within seven (7) days after such arrest, or (2) take him without unnecessary delay before a magistrate.

“Said summons or citation shall be printed in a form comparable to the form of other summonses and citations used for arresting offenders and shall be designed to provide for inclusion of all necessary information. The form and content of such summons or citation shall be adopted or prescribed by the district courts.

“The original of a summons or citation shall be given to the purported violator and the other copy or copies distributed in the manner prescribed by the district courts; provided that, the district courts may prescribe alternative methods of distribution for the original and any other copies.

“Summonses and citations shall be consecutively numbered and the carbon copy or copies of each shall bear the same number.

“Any person who fails to appear at the place and within the time specified in the summons or citation issued to him by the enforcement officer, upon his arrest for violation of any provision of this chapter, including any rule or regulation promulgated pursuant to this chapter, shall be guilty of a misdemeanor and, on conviction, shall be fined not more than \$1,000, or be imprisoned not more than six months, or both.

“In the event any person fails to comply with a summons or citation issued to such person, or if any person fails or refuses to deposit bail as required, the enforcement officer shall cause a complaint to be entered against such person and secure the issuance of a warrant for his arrest.”

SECTION 2. Severability. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 23, 1970.)

ACT 152

H. B. NO. 1735-70

A Bill for an Act Relating to Highway Safety and Amending Act 128, SLH 1969.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 286-101 of Hawaii Revised Statutes is hereby amended to read as follows:

* Edited accordingly

ACT 153

"Section 286-101. Designation of examiner of chauffeurs. The Chief Executive of each county shall designate one or more persons, residing in the county, each of whom shall be a competent operator of motor vehicles, to be known as the examiner of chauffeurs, and whose duty it shall be to examine into the qualifications and fitness of any person desiring to secure or to renew a license to operate a motor vehicle as provided in this part."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 23, 1970.)

ACT 153

S. B. NO. 1255-70

A Bill for an Act Relating to Hours of Work of Public Officers and Employees.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 80-8, Hawaii Revised Statutes, is amended to read as follows:

"Section 80-8. Split-shift pay. Any officer or employee of the State or any county, or independent board or commission thereof, whose regular hours of work are divided into separate shifts shall be paid, in addition to his basic compensation, at the rate of fifteen cents for each hour of work that shall be deemed to be on a split-shift."

SECTION 2. Section 80-9, Hawaii Revised Statutes, is amended to read as follows:

"Section 80-9. Night shift. Except for employees assigned to shifts of more than eight hours per day on a regular basis, any employee of the State or any county, or independent board or commission thereof, who is required to perform work between the hours of 6:00 in the evening and 6:00 in the morning shall be compensated, in addition to his basic compensation, at the rate of fifteen cents per hour for the hours worked between 6:00 in the evening and 6:00 in the morning.

The city and county of Honolulu and the various counties may provide by ordinance for night shift pay for employees assigned to shifts of more than eight hours per day on a regular basis."

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000 or so much thereof as may be necessary, to be expended by the department of budget and finance for the purpose of this Act.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

* Edited accordingly

SECTION 5. This Act shall take effect on July 1, 1970.
(Approved June 23, 1970.)

ACT 154

S. B. NO. 1261-70

A Bill for an Act Relating to the Public Employees Health Fund and Making an Appropriation Therefor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 87-4, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 87-4 State contributions to the fund. The State through the department of budget and finance shall pay to the fund a monthly contribution of \$5 for each employee-beneficiary and \$15 for each employee-beneficiary with a dependent-beneficiary, such contributions to be used towards the payment of costs of hospital, medical, and surgical benefits of a health benefits plan, provided, that the monthly contribution shall not exceed the actual cost of a health benefits plan. If both husband and wife are employee-beneficiaries, the total contribution by the State shall be \$15 for both of them.

The State shall make a monthly contribution of \$1.40 for each child who has not attained the age of nineteen of all employee-beneficiaries who are enrolled for dental benefits. The contributions shall be used towards the payment of costs of dental benefits of a health benefits plan. Notwithstanding any provision to the contrary, no part of the fund shall be used to finance the contributions except a rate credit or reimbursement or earnings or interest therefrom received by the fund, or general revenues appropriated for that purpose.

The State through the department of budget and finance shall pay to the fund a monthly contribution of \$2.25 for each employee to be used towards the payment of group life insurance benefits for each employee.

The contributions shall not be considered as wages or salary of an employee-beneficiary, and no employee-beneficiary shall have any vested right in or be entitled to receive any part of any contribution made to the fund."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,326,000, or so much thereof as may be necessary, to be expended by the department of budget and finance for the purposes of this Act.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect on July 1, 1970.
(Approved June 23, 1970.)

ACT 155

S. B. NO. 1911-70

A Bill for an Act Relating to Absentee Ballots for the Presidential Election and Amending Chapter 14 of the Hawaii Revised Statutes.

* Edited accordingly

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 14 of the Hawaii Revised Statutes is hereby amended by adding a new section to be appropriately numbered and to read as follows:

"Section 14- . If ineligible to qualify as a voter in the State to which he has moved, any former registered voter of Hawaii may vote an absentee ballot in any presidential election occurring within 24 months after leaving Hawaii by requesting an application form and returning it properly executed to the county clerk of the county of his prior Hawaii residence. When requesting an application form for an absentee ballot, the applicant shall specify his eligibility for only the presidential ballot, and the fact of applicant's ineligibility to vote at his new place of residence verified by the voter registrar or his authorized representative in the jurisdiction of the applicant's new residence. The application shall require the following information and be in substantially the following form.

This blank must be returned to the county clerk's office. It must be received in sufficient time for ballots to be mailed and returned prior to any presidential election at which the applicant wished to vote. Complete all statements in full.

APPLICATION FOR PRESIDENTIAL ABSENTEE
BALLOT

(To be voted at the presidential election on November, 19 ..)

I,, do solemnly swear or affirm that I am a citizen of the United States, and was a registered voter of the State of Hawaii formerly residing at
..... I do solemnly swear or affirm that I do not qualify to vote at the presidential election to be held on November, 19...., under the laws of the State of, where I am presently residing. I further swear or affirm that my residence in the State ofwas established on theday of, 19....

Signed.....

Print Name.....

Present Address.....

Subscribed and sworn to

before me this

day of, 19....

.....

Notary Public

County of

[Form is continued on next page.]

State of

My commission expires

.....

The ballot shall be mailed to

Name.....

Address.....

City.....

State.....

Zip Code.....

VERIFICATION OF INELIGIBILITY

The undersigned hereby verifies that

name of applicant

is not eligible to vote at his prior residence due to

reason

Signed.....

print name of voter registrar

Title.....

Address.....

Subscribed and sworn to

before me this....

day of, 19....

.....

Notary Public

County of

State of

My commission expires

.....”

SECTION 2. This Act shall take effect upon its approval.

(Approved June 23, 1970.)

ACT 156

H. B. NO. 200

A Bill for an Act Making an Appropriation for a Study to Develop a State Program for the Rehabilitation of Persons Addicted to, or in Imminent Danger of Becoming Addicted to, Narcotics.

Be It Enacted by the Legislature of the State of Hawaii:

ACT 157

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii, not otherwise appropriated, the sum of \$15,000 or so much thereof as may be necessary, for a study to develop a state program for the rehabilitation of persons addicted to, or in imminent danger of becoming addicted to, narcotics. The study shall include a description of existing rehabilitation efforts by public and private agencies in the State for persons addicted to, or in imminent danger of becoming addicted to, narcotics; a survey of important programs and research in other jurisdictions in the area of prevention, treatment, and rehabilitation for narcotic addiction; plans for taking advantage of federal assistance under the National Institute of Mental Health's Center for Narcotics and Drug Abuse and other federal grant programs for construction and staffing of facilities under the state program; an estimate of the initial and recurring costs of establishing and maintaining alternative state programs; evaluation of various treatment methods and settings, such as imprisonment, imprisonment plus parole, probation, involuntary commitment, voluntary commitment, medical-psychiatric treatment, synanon-type programs, Addicts Anonymous, religious programs, ancillary treatments aimed at ensuring abstinence, and ancillary treatments aimed at rehabilitation, including individual psychotherapy, group psychotherapy, milieu treatment, special living arrangements, vocational rehabilitation, and family and social services.

SECTION 2. The sum hereby appropriated shall be expended for the purposes herein specified by the University of Hawaii.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 23, 1970.)

ACT 157

H. B. NO. 657

A Bill for an Act Relating to Reimbursement to the City and County of Honolulu under Section 70-111, Hawaii Revised Statutes, for the Cost of General and Sewer Improvements in the Various Improvement Districts of the City and County of Honolulu and Making Appropriation therefor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The sum of \$1,178,310.94 is hereby appropriated out of moneys in the treasury from general obligation bond funds, to reimburse the City and County of Honolulu under the provisions of Section 70-111, Hawaii Revised Statutes, for payments made by it as assessments on lands for the cost of general improvements and sewer improvements constructed within the various improvement districts of the City and County of Honolulu. The director of finance is authorized to issue general obligation bonds of the State in the amount of \$1,178,310.94 for the purpose of this Act.

PROJECT NAME AND IMPROVEMENT DISTRICT	OWNERS	REIMBURSABLE AMOUNT
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GENERAL IMPROVEMENTS		
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PROJECT NAME AND IMPROVEMENT DISTRICT	OWNERS	REIMBURSABLE AMOUNT
to Tenth Ave., Palolo Valley. Improvement District 142	Hawaii Housing Authority (Palolo Valley Homes)	
	State of Hawaii	\$ 3,383.30
Aipaako & Kunawai Improvement District 148	State of Hawaii	9,468.31
	State of Hawaii	33,720.16
Pawaa Kai, Improvement District 153	State of Hawaii Hawaii Housing Authority (Kalakaua Homes)	9,131.71
Akaka Place, Improvement District 163	Lin Yee Chung Chinese Cemetery	6,258.60
Bingham & Kaialiu Streets Improvement District 151	Church of the Crossroads	6,629.52
Waimea-Pupukea Water System, Kookauloa Improvement District 166	State of Hawaii	1,379.28
Houghtailing Street, King Street to School Street, Kapalama, Improvement District 161	Roman Catholic Church	24,271.02
Palolo Valley, Improvement District 152	Apostolic Faith Church	586.01
	Bethel Missionary Baptist Church	1,411.70
	Honpa Hongwanji Mission of Hawaii	596.40
	Kaimuki Evangelical Church	4,631.62
	Palolo Valley Church of Christ	863.38
	Protestant Episcopal Church	1,508.63
	Palolo Chinese Home	9,466.32
	Board of Home Missions and Church Extension of the Methodist Episcopal Church	2,619.51
	Div. of National Missions of the Board of Missions of the Methodist Church	1,113.62
	Roman Catholic Church	3,656.19

ACT 157

PROJECT NAME AND IMPROVEMENT DISTRICT	OWNERS	REIMBURSABLE AMOUNT
	State of Hawaii, Hawaii Housing Authority (Palolo Valley Homes)	\$ 57,981.97
	State of Hawaii	85,573.46
Kahaluu Cutoff Road, Likelike Highway to Northerly Boundary of Ahuimanu, Koolaupoko, Improvement District 162	State of Hawaii (Hawaii State Hospital)	106,486.24
Kapalama - Unit III, Improvement District 167	State of Hawaii	43,992.35
University Avenue, Improvement District 169	State of Hawaii	155,245.30
	Church of the Crossroads	3,765.04
	Our Redeemer Evangelical Lutheran Church of Hawaii	2,281.39
	Young Men's Christian Ass'n. of Honolulu	3,665.23
	Board of Home Missions and Church Extension of the Methodist Episcopal Church	1,676.35
	Division of National Missions of the Board of Missions of the Methodist Church	1,245.60
	Pacific and Asian Affairs Council	3,055.01
Waihee Road, Improvement District 178	Pali View Baptist Church and Hawaii Baptist Convention	2,788.32
	Methodist Church	2,064.12
Wahiawa Business Section, Improvement District 181	State of Hawaii	50,374.99
	Central Oahu Christian Church	830.56
	Holloway Trust (Wahiawa Hospital Ass'n)	37,472.85
Lunalilo Home Road, Improvement District 186	Lunalilo Trust	13,108.12
Kalihi-Kai, Improvement District 183	State of Hawaii	6,215.03
	United States of America	237,228.14

PROJECT NAME AND IMPROVEMENT DISTRICT	OWNERS	REIMBURSABLE AMOUNT
Alaneo Street, I.D. - 190	State of Hawaii	\$ 44,843.78
South King Street, Pensacola Street to Punahou Street, Improvement District No. 198	State of Hawaii, Dept. of Agriculture State of Hawaii, Dept. of Accounting and General Services	22,611.49 15,777.32
Keolu Drive, From the Vicinity of the Shopping Center to Kalaniana'ole Highway, Improvement District No. 202	Hawaiian Association of Seventh Day Adventists Roman Catholic Bishop of Honolulu	870.16 20,727.13
SEWER IMPROVEMENTS		
Kailua Sewers, Sec. I, Kailua, I.D. - 154	Division of National Missions of the Board of Missions of the Methodist Church Makiki Christian Church	400.00 200.00
Kaneohe Sewers, Sec. III, Kaneohe, I.D. - 156	Division of National Missions of the Board of Missions of the Methodist Church The New Light of the Living God Church of Kaneohe	4,143.40 600.00
Kalihi-Uka Sewers, Sec. IV, Kalihi Valley, I.D. - 159	Saint Anthony Homes	18,056.56
Kaneohe Sewers, Sec. IV, Kaneohe, I.D. - 160	Mid-Pacific Institute Kokokahi Community Trust Hawaiian Evangelical Association of Congregational Christian Church Young Women's Christian Ass'n of Honolulu	200.00 5,745.40 600.00 9,361.16
Lakeview Circle Sewers, Wahiawa, I.D. - 176	King's Gospel Center State of Hawaii	2,719.80 276.24
Wahiawa Sewers, Sec. III, Wahiawa, I.D. - 177	First Baptist Church of Wahiawa California and Nevada Dist. of Lutheran Church - Missouri Synod Trinity Lutheran Church	300.00 926.04 961.84

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PROJECT NAME AND IMPROVEMENT DISTRICT	OWNERS	REIMBURSABLE AMOUNT
	Christian Science Society	\$ 781.04
	The Protestant Episcopal Church in the Hawaiian Islands	2,231.20
Puohala Village Sewers, Kaneohe, I.D. - 144	St. Mark Lutheran Church	2,146.00
Wahiawa Sewers, Sec. II, Wahiawa, I.D. - 138	Division of National Missions of the Board of Missions of the Methodist Church	300.00
	Roman Catholic Church	6,587.72
Kaneohe Sewers, Sec. III, Kaneohe, I.D. - 175	Sacred Hearts' Academy	7,200.00
	Kaneohe Congregational Church	907.60
Kailua Sewers, Sec. II, Kailua, I.D. - 173	The Roman Catholic Bishop of Honolulu	400.00
	Roman Catholic Church	5,064.12
	The Roman Catholic Bishop of Honolulu	800.00
	Hawaiian Association of Seventh-Day Adventists	800.00
	Kailua Missionary Baptist Church Trust	542.96
	Hawaiian Association of Seventh-Day Adventists	800.00
	The Protestant Episcopal Church in the Hawaiian Islands	400.00
	The Protestant Episcopal Church in the Hawaiian Islands	403.20
	The Protestant Episcopal Church in the Hawaiian Islands	1,830.16
	Hawaiian Association of Seventh-Day Adventists	400.00
	Kailua Assembly of God	456.12
	Kailua Church of Christ	1,357.44
	Hawaiian Association of Seventh-Day Adventists	200.00
	Kailua Assembly of God	200.00

PROJECT NAME AND IMPROVEMENT DISTRICT	OWNERS	REIMBURSABLE AMOUNT
	State of Hawaii	\$ 3,526.64
Nuuanu Valley Sewers, Sec. IV	Chinese Buddhist Association of Hawaii	1,930.48
Nuuanu, I.D. - 174	Hawaii Conference of the United Church of Christ	400.00
	Church of World Messianity, Central Church Hawaii	5,652.32
	State of Hawaii	1,600.00
	State of Hawaii	326.72
Kailua Sewers, Sec. 3		
Kailua, I.D. - 187	State of Hawaii	18,435.20
Manoa Sewers, Sec. 1		
Manoa, I.D. - 193	University Avenue Baptist Church	621.84
	Baptist Church	224.00
	Baptist Church	220.00
	The Honolulu Monthly meeting of the Religious Society of Friends	348.88
	Honolulu Holiness Church	1,110.00
	Hawaiian Evangelical Ass'n of Congregational Christian Churches	720.00
	Rudolf Steiner Foundation - Hawaii	451.36
	Hawaii Baptist Convention	164.00
Kaimuki-West Sewers, Sec. 3		
Kaimuki, I.D. - 196	State of Hawaii	400.00
	State of Hawaii	394.48
	State of Hawaii	344.00
	State of Hawaii	240.00
	State of Hawaii	270.00
	State of Hawaii	400.00
	The Episcopal Church in Hawaii	1,200.00
	Grace Chapel of South Gate, Inc.	149.60
Kailua Sewers, Sec. 5		
Kailua, I.D. - 194	Corporation of the President of the Church of Jesus Christ of Latter Day Saints	3,147.92

ACT 158

PROJECT NAME AND IMPROVEMENT DISTRICT	OWNERS	REIMBURSABLE AMOUNT
Manoa Sewers, Sec. 2 Manoa, I.D. - 199	Hawaiian Association of Seventh-Day Adventists The Parish of St. Clement's Inc. The Salvation Army The National Board of Y.M.C.A. Our Redeemer Evangelical Lutheran Church of Hawaii	\$1,767.72 400.00 195.60 297.04 300.00
Kaneohe Sewers, Sec. 6 Kaneohe, I.D. - 201	Latter Day Saints Church State of Hawaii	4,800.00 3,117.36
Whitmore Village Sewers Wahiawa, I.D. - 208	The Universal Christian Church and Bible School	200.00
Niu Valley Sewers Niu, I.D. - 210	The Roman Catholic Bishop of Honolulu State of Hawaii	4,251.24 800.00
TOTAL		\$1,178,310.94

SECTION 2. The sum of \$1,178,310.94 hereby appropriated shall be paid to the City and County of Honolulu when and as requested by resolution of the City Council of the City and County of Honolulu.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 23, 1970.)

ACT 158

H. B. NO. 1440-70

A Bill for an Act Relating to the Filling of a Vacant Position without Examination.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 76-23, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 76-23 Filling vacancy. All vacancies and new positions in civil service shall be filled in the manner prescribed in this part or in section 78-1.

Whenever there is a position to be filled, the appointing authority shall

request the director of personnel services to submit a list of eligibles. The director shall thereupon certify a list of five or such fewer number as may be available, taken from eligible lists in the following order: first the promotional lists, second the reemployment lists and third the open-competitive lists; provided, that with respect to the eligibles under unskilled classes, the director shall certify all of the eligibles on such list. The director shall submit eligibles in the order that they appear on the eligible list; provided that if the last of the five eligibles to be certified is one of two or more eligibles who have identical examination scores, such two or more eligibles shall be certified notwithstanding the fact that more than five persons are thereby certified to fill a vacancy.

In any case where there are three or more eligibles in one department whose names appear as eligibles on an interdepartmental list, upon the request of the appointing authority of such department such three or more names shall be certified to him as eligibles on an interdepartmental eligible list; but where the interdepartmental list has been in existence for more than six months and there are five or more persons in the department qualified for the class, the department may request an interdepartmental promotional examination, in which case the director shall hold either an interdepartmental or an interdepartmental promotional examination. The order in which eligibles are placed on eligible lists shall be fixed by rule. The appointing authority shall make the appointment only from the list of eligibles certified to him unless he finds no person acceptable to him on the list certified by the director, in which case he shall reject the list and request the director to submit a new list, in which event the director shall submit a new list of eligibles selected in like manner; provided that the appointing authority states his reasons in writing for rejecting each of the eligibles on the list previously certified to him and the director or, in case of the counties, by the civil service commission. Eligible lists, other than reemployment lists, shall be effective for one year but this period may be extended by the director.

An appointing authority may fill a vacant position in his department by promoting any regular employee in the department without examination if the employee meets the minimum class qualifications of the position to which he is to be promoted, and if the position is in the same or related series as the position held by the employee; provided, that when there is no material difference between the qualifications of the employees concerned, the employee with the longest government service shall receive first consideration for the promotion.

Any regular employee receiving any such promotion without examination shall be ineligible for a second such promotion without examination prior to his having completed one year of satisfactory service in the position to which he was so promoted, but he may at any time be eligible for a promotion to any position through examination.

An employee filling a permanent position temporarily vacant may be given a permanent appointment to the position if it later develops that the vacancy will be permanent, provided he was originally appointed from an appropriate eligible list and the appointing authority certifies that he has been performing the duties of the position in a satisfactory manner."

ACT 159

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.
(Approved June 23, 1970.)

ACT 159

H. B. NO. 1453-70

A Bill for an Act Relating to Trespass to Vessel and Providing a Penalty Therefor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. **Definitions.** As used in this Act:

"Policeman" means a police officer and any other State and County officer charged with the enforcement of State laws.

"Vessel" means every description of watercraft, used or capable of being used as a means of transportation on water.

"Waters of the State" means any waters within the jurisdiction of the State and the marginal seas adjacent to the State.

SECTION 2. **Trespass to vessel; penalty.** Whoever, without right, boards or remains in or upon any vessel of another within the waters of the State shall be fined not more than \$250, or imprisoned not more than three months, or both.

SECTION 3. **Questioning and detaining suspected persons aboard a vessel.** A policeman may detain any person found upon a vessel under circumstances as reasonably justify a suspicion that the person boarded without permission for the purpose of demanding, and may demand of the person, his name, address and the nature of his business upon the vessel. If the policeman has reason to believe that the person has no right to be upon the vessel, the policeman may arrest the person without a warrant on the charge of violating Section 2 of this Act.

SECTION 4. This Act shall take effect upon its approval.
(Approved June 23, 1970.)

ACT 160

H. B. NO. 1679-70

A Bill for an Act Relating to the Civil Air Patrol.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 261-6, Hawaii Revised Statutes, is amended to read as follows:

"**Section 261-6. Grant for Civil Air Patrol.** (a) The sum of \$56,000 annually is granted from the airport revenue to carry on the operations and defray the expenses of the Hawaii wing, Civil Air Patrol, expended pursuant to this section on a Statewide basis.

(b) There shall be expended from the sum granted only such amounts as shall be needed to repair or replace equipment which is not repaired or re-

* Edited accordingly

placed by the United States Government, the United States Air Force, or any other agency; for defraying expenses incurred in actual rescue work or mercy missions; for aviation and civil defense training; for upkeep, replacement or purchase of communication equipment (provided that only such sums shall be expended on communication systems as will be necessary for the procurement or replacement of equipment not otherwise obtainable by grant or gift from any other source); for the purchase of aviation gasoline solely for the use of the Civil Air Patrol. No sum of money shall be expended for uniforms or personal equipment of any member of the Civil Air Patrol nor shall any sum or sums of money be paid out from funds granted for any salaries except as hereinafter provided.

(c) The wing commander may employ salaried assistants, who shall not be subject to chapters 76 and 77, at a salary of not more than the SR-21 salary range. The assistants shall perform the duties of adjutant and such other duties as may be required of him by the wing commander.

(d) All expenditures from the amount hereinabove granted shall be upon vouchers signed by the wing commander of the Civil Air Patrol.

(e) In expending the sum granted the Civil Air Patrol shall consult and cooperate with the department of transportation to the end that the maximum education and development in aeronautical matters may be afforded and the maximum contribution to civil defense be made.

(f) The department is specifically authorized to cooperate with the Civil Air Patrol to the end stated in subsection (e) and, in particular, to furnish accommodations, goods, and services in its discretion to the Civil Air Patrol."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 23, 1970.)

ACT 161

S. B. NO. 327

A Bill for an Act Relating to the Payment of Physician's Fees for Indigent Defendants in Criminal Cases.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Whenever any person charged with a criminal offense intends to defend against the charge that he was or is insane and therefore not criminally responsible, or that his mind was affected by mental derangement to such an extent he was not culpable of the offense charged or an included offense, and such person is without means or resources to obtain the services of a physician to examine him and testify in his behalf at his trial, the court may appoint a physician of the defendant's choice for such purposes, provided the physician agrees, and shall direct the payment to the physician of a reasonable fee for his services, to be paid from court funds. The defendant or his attorney shall satisfy the court by affidavit or otherwise that the defendant is without

* Edited accordingly

ACT 162

means or resources and the appointment of a physician is reasonably necessary for the defense to the charge.

SECTION 2. This Act shall take effect upon its approval.

(Approved June 23, 1970.)

ACT 162

S. B. NO. 1244-70

A Bill for an Act Relating to Loyalty Oaths of Aliens in Public Employment.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 85-34, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 85-34. Waiver of oath by governor, when allowed. The governor may waive compliance with all or any part of the provisions of this part in respect to the following classes of officers or employees or any portion thereof:

- (1) Officers or employees of the State (including kokuas and voluntary helpers) located or stationed at any hospital, settlement, or place for the care and treatment of persons affected with leprosy;
- (2) Institutional inmate or patient employees or help in state or county institutions;
- (3) Aliens employed by the State or any county;
- (4) Referees, receivers, masters, and jurors;
- (5) Casual and temporary employees, whether on a monthly salary or a per diem basis, and inspectors and clerks of elections."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 23, 1970.)

ACT 163

S. B. NO. 1675-70

A Bill for an Act Making an Appropriation to Revise the Public Utility and Transportation Laws of the State of Hawaii.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000, or so much thereof as may be necessary, to study and review the public utility and transportation laws of the State of Hawaii and to prepare legislation indicated by the review to the legislature at the regular session of 1971.

SECTION 2. The sum appropriated shall be expended by the department of regulatory agencies upon prior consultation with the attorney general.

* Edited accordingly

SECTION 3. The expenditure of monies under this Act shall not be subject to chapters 76 and 77 and section 78-1 of the Hawaii Revised Statutes.

SECTION 4. This Act shall take effect upon its approval.
(Approved June 23, 1970.)

ACT 164

S. B. NO. 1793-70

A Bill for an Act Relating to Driver's Licenses.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Part VI of chapter 286, Hawaii Revised Statutes, is amended in the following respects:

- (1) Section 286-102 is amended by deleting subsection (b) (3) thereof.
- (2) Section 286-106 is amended by deleting subsection (c) thereof.
- (3) Section 286-107 is amended by deleting subsection (b) thereof.
- (4) Section 286-115 is repealed.
- (5) Section 286-127 is repealed.

SECTION 2. Section 286-2, Hawaii Revised Statutes, is amended in the following respects:

- (1) By deleting the definition of "Chauffeur";
- (2) By amending the term "Examiner of chauffeurs" to read "Examiner of drivers";
- (3) By deleting the definition of "Operator";
- (4) By adding two definitions to read as follows:

"Driver" means every person who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed or pushed by a motor vehicle."

"Driver's license" means any license to operate a motor vehicle issued under the laws of this State."

SECTION 3. The Hawaii Revised Statutes is amended by deleting the terms "examiner of chauffeurs" or "chauffeur" or "chauffeur's license" or "chauffeur's badge" or "operator" or "operator's license" and substituting in lieu thereof the terms "examiner of drivers" or "driver" or "driver's license".

SECTION 4. Any holder of an operator's or chauffeur's license on the effective date of this Act shall, for the purposes of this Act, be a holder of a driver's license as provided for in this Act and all provisions of this Act relating to a driver's license shall attach to any existing, valid operator's or chauffeur's license.

SECTION 5. This Act shall take effect on July 1, 1970.
(Approved June 23, 1970.)

ACT 165

H. B. NO. 1597-70

A Bill for an Act Relating to Assistance for Displaced Persons, Families, Businesses and Non-Profit Organizations in Airport Acquisition Programs.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Findings and Declaration of Legislative Purpose. The Legislature hereby finds and declares that it is in the public interest that persons displaced by any land acquisition undertaken by the State for airport purposes should be compensated for such displacement under certain circumstances.

SECTION 2. Chapter 261, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read:

“PART . AIRPORT RELOCATION

“Section 261- . Definitions. When used in this part:

‘Person’ means (1) any individual, partnership, corporation or association which is the owner of a business; (2) any owner, part owner, tenant, or sharecropper operating a farm; (3) the head of a family; or (4) an individual not a member of a family.

‘Family’ means two or more individuals living together in the same dwelling unit who are related to each other by blood, marriage, adoption, or legal guardianship.

‘Displaced person’ means any person who is required to move from any real property on or after the effective date of this Part as a result of the acquisition of such real property for airport purposes or as the result of the acquisition for airport purposes of other real property on which such person is conducting a business or farm operation.

‘Director’ means the state director of transportation.

‘Business’ means any lawful activity conducted (1) primarily for the purchase and resale, manufacture, processing, or marketing of products, commodities or any other personal property; (2) primarily for the sale of services to the public; or (3) by a non-profit organization.

‘Farm operation’ means any activity conducted solely or primarily for the production of one or more agricultural products or commodities for sale and home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator’s support.

“Section 261- . Assistance for displaced person, families, businesses and non-profit organizations. (a) Payment of actual and reasonable expenses. The director may compensate any person, family, business, or non-profit organization for his or its actual and reasonable moving expenses incurred as a result of being displaced by any land acquisition program of the State for any airport purpose.

(b) Optional payments (dwellings). Any displaced person who moves from a dwelling who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (a) of this section may receive:

1. A moving expense allowance, determined according to a schedule established by the director not to exceed two hundred dollars (\$200);
2. A dislocation allowance in the amount of one hundred dollars (\$100).

(c) Optional payments (business and farm operations). Any displaced person who moves or discontinues his business or farm operations who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section, may receive a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, or \$5,000, whichever is the lesser. In the case of a business no payment shall be made under this subsection unless the director is satisfied that the business (1) cannot be relocated without a substantial loss of its existing patronage; and (2) is not part of a commercial enterprise having at least one other establishment, not being acquired by the State which is engaged in the same or similar business.

"The director shall include the costs specified in this section as a part of the cost of construction of the airport for which such land acquisition program is initiated.

"Section 261- . Replacement housing. (a) In addition to any amount authorized herein as part of the cost of construction of the airport for which land acquisition is initiated, the director shall make a payment to the owner of real property improved by a single-family, two-family, or three-family dwelling actually owned and occupied by the owner for not less than one year prior to the first written offer by the department of transportation for the acquisition of such property. Such payment, not to exceed \$5,000, shall be the amount, if any, which when added to the acquisition payment, equals the average price required for a comparable dwelling determined, in accordance with standards established by the director to be a decent, safe, and sanitary dwelling adequate to accommodate the displaced owner, reasonably accessible to public services and places of employment, and available on the private market. Such payment shall be made only to a displaced owner who purchases and occupies a dwelling within one year subsequent to the date on which he is required to move from the dwelling acquired for the project.

"(b) In addition to amounts otherwise authorized by this Part, the director shall make a payment to any individual or family displaced from any dwelling not eligible to receive a payment under subsection (a) of this section which dwelling was actually and lawfully occupied by such individual or family for not less than ninety days prior to the first written offer by the department of transportation for acquisition of such property. Such payment, not to exceed \$1,500 shall be the amount which is necessary to enable such person to lease or rent for a period not to exceed two years, or to make the down payment on the purchase of a decent, safe and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities.

"Section 261- . Not treated as income. No payment received under this part shall be considered as income for purposes of the State income tax law; nor shall such payments be considered as income to any recipient of public assistance and such payment shall not be deducted from the amount of aid to which the recipient would otherwise be entitled to under the State welfare programs.

"Section . Decision of director. The written decision of the director shall be final.

"Section . Rules and Regulations. The director may adopt rules and regulations to carry out the purposes of this part and may adopt all or any part of applicable federal rules and regulations which are necessary or desirable to obtain federal assistance in making payments hereunder."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval but shall apply to those individuals who were displaced as a result of proposed airport projects after September 1, 1969.

(Approved June 25, 1970.)

ACT 166

S. B. NO. 1977-70

A Bill for an Act Relating to Assistance to Persons, Families, Businesses and Nonprofit Organizations Displaced by Programs for Public Purposes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Findings and declaration of legislative purpose. The legislature hereby finds and declares that it is in the public interest that persons displaced by any action undertaken by any State or county governmental agency should be compensated for such displacement under certain circumstances. The purpose of this Act is to establish a uniform policy for the fair and equitable treatment of owners, tenants, other persons, and business concerns displaced by the acquisition of real property for public or other purposes in the public interest, by building, zoning, and other similar code enforcement activities, or by a program of voluntary rehabilitation of buildings or other improvements conducted pursuant to governmental supervision.

SECTION 2. Definitions. As used in this Act, the term:

"Person" means (1) any individual, partnership, or corporation or association which is the owner of a business; (2) any owner, part-owner, tenant, or sharecropper operating a farm; (3) the head of a family; (4) an individual not a member of a family; (5) a nonprofit organization exempted from taxation under section 235-9, Hawaii Revised Statutes.

"Family" means two or more individuals living together in the same dwelling unit who are related to each other by blood, marriage, adoption, or legal guardianship.

"State agency" means an agency or instrumentality created by a State and includes for purposes of this Act county governmental agencies.

"Displaced person" means any person who is required to move from any real property on or after the effective date of this Act, as a result of the acquisition or imminence of acquisition of such real property, in whole or in part, by a State agency or who moves from such real property as a result of the acquisition or imminence of acquisition by such State agency of other real property on

* Edited accordingly

which such person is conducting a business or farm operation. "Displaced person" also includes the foregoing movements from real property by any person as a result of a governmental program of voluntary rehabilitation or building, zoning, and other similar code enforcement activities.

"Business" means any lawful activity conducted (1) primarily for the purchase and resale, manufacture, processing or marketing of products, commodities, or any other personal property; (2) primarily for the sale of services to the public; or (3) by a nonprofit organization.

"Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities for sale and home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

SECTION 3. Relocation payments. (a) If any State agency displaces persons described herein, it shall make fair and reasonable relocation payments to such displaced persons as required by this Act.

(b) A relocation payment to a displaced person shall be for his or its actual and reasonable moving expenses.

(c) Optional payments (dwelling). Any displaced person who moves from a dwelling who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (b) of this section may receive: (1) a moving expense allowance determined according to a schedule established by the State agency involved not to exceed \$200; and (2) a dislocation allowance in the amount of \$100.

(d) Optional payments (business and farm operations). Any displaced person who moves or discontinues his business or farm operations who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section may receive a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, or \$5,000, whichever is the lesser. In the case of a business, no payment shall be made under this subsection unless the State agency involved is satisfied that the business (1) cannot be relocated without a substantial loss of its existing patronage; and (2) it is not part of a commercial enterprise having at least one other establishment, not being acquired by the State agency which is engaged in the same or similar business.

(e) In lieu of the payments authorized by subsections (b), (c), and (d), the State agency may at its option and at its expense undertake to move as applicable the personal effects or business or farm operation to the site to which the displaced person is to be relocated.

SECTION 4. Replacement housing. (a) In addition to any amount authorized herein, the State agency involved in acquiring any real property shall make a payment to the owner of real property improved by a single-family, two-family, or three-family dwelling actually owned and occupied by the owner for not less than one year prior to the first written offer by the State agency for the acquisition of such property. Such payment, not to exceed \$5,000, shall be the amount, if any, which when added to the acquisition payment,

equals the average price required for a comparable dwelling determined, in accordance with standards established by the State agency to be a decent, safe, and sanitary dwelling adequate to accommodate the displaced owner, reasonably accessible to public services and places of employment, and available on the private market. Such payment shall be made only to a displaced owner who purchases and occupies a dwelling within one year subsequent to the date on which he is required to move from the dwelling on the real property acquired for public purposes.

(b) In addition to any amount authorized herein, the State agency shall make a payment to any individual or family displaced from any dwelling not eligible to receive a payment under subsection (a) of this section which dwelling was actually and lawfully occupied by such individual or family for not less than ninety days prior to the first written offer by the State agency for acquisition of such property. Such payment, not to exceed \$1,500 shall be the amount which is necessary to enable such person to lease or rent for a period not to exceed two years or to make the downpayment on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities.

SECTION 5. Not treated as income. No payment received under this Act shall be considered as income for purposes of the State income tax law; nor shall such payments be considered as income to any recipient of public assistance and such payment shall not be deducted from the amount of aid to which the recipient would otherwise be entitled under State welfare program.

SECTION 6. Relocation assistance programs. (a) When actions of a State agency displace or will displace any person, it shall assure that a relocation assistance program for such displaced person offering the services herein prescribed is available to reduce hardship to those affected and to reduce delays in improvements and other programs for public or other purposes in the public interest. If the State agency determines that other persons, business concerns, farm operations, or nonprofit organizations occupying property adjacent to any real property acquired are caused substantial economic injury because of the public improvement for which property is acquired, it may provide such persons, business concerns, farm operations, or nonprofit organizations relocation services under such program.

(b) Each relocation assistance program required by subsection (a) shall include such measures, facilities, or services as may be necessary or appropriate in order (1) to determine the needs of displaced persons for relocation assistance; (2) to assist owners of displaced business concerns and farm operations in obtaining and becoming established in suitable business locations or replacement farms; (3) to supply information concerning programs of the federal government offering assistance to displaced persons and business concerns; (4) to assist in minimizing hardships to displaced persons in adjusting to relocation; and (5) to secure to the greatest extent practicable the coordination of relocation activities with other project activities and other planned or proposed

State agency action in the community or nearby areas which may affect the carrying out of the relocation program.

SECTION 7. Assurance of availability of housing. If any State agency displaces any person or persons, it shall provide a feasible method for the relocation of families and individuals displaced from the property acquired and assurance that there are or are being provided in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary dwellings equal in number to the number of displaced families and individuals and available to such displaced families and individuals and reasonably accessible to their places of employment.

SECTION 8. Authority of Hawaii housing authority. (a) The Hawaii housing authority shall make such regulations as may be necessary to assure: (1) that relocation payments authorized by section 3 are fair and reasonable; (2) that a displaced person that makes proper application for a relocation payment authorized by this Act is, if personal property is disposed of and replaced for use at the new location, paid an amount equal to the reasonable expenses that would have been required in removing such personal property to the new location; (3) that a displaced person making proper application for and entitled to receive a relocation payment authorized by this Act is paid promptly after the relocation; (4) that a displaced person has a reasonable time from the date of displacement in which to apply for a relocation payment authorized by this Act.

(b) In order to prevent unnecessary expense and duplication of functions and to promote uniform and effective administration of relocation assistance programs for displaced persons, the Hawaii housing authority may require that any other state or county agency may make relocation payments or provide relocation services or otherwise carry out its functions under this Act by utilizing the facilities, personnel, and services of an already existing agency designated by the Hawaii housing authority or shall establish an organization for conducting relocation assistance programs or of any other agency conducting comparable programs. The Hawaii housing authority, or other agency providing such services may charge a reasonable fee to any other agency utilizing its relocation assistance services.

SECTION 9. Rules and regulations. The Hawaii housing authority may adopt and amend rules and regulations to carry out the purposes of this Act and may adopt all or any part of applicable federal rules and regulations which are necessary or desirable to obtain federal assistance in making payments hereunder.

SECTION 10. Conflicts between State and federal requirements. If the funds for relocating any displaced person have been loaned or furnished, wholly or in part, by the United States, or any instrumentality thereof, under terms and provisions contrary to this Act, the terms and provisions required by the United States, or any such instrumentality, shall govern and are made applicable, and the officer expending such funds shall conform to such require-

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ments as the United States, or any such instrumentality, shall provide or require, any law or laws of the State to the contrary notwithstanding.

SECTION 11. Fund availability. The State agency shall include the cost specified in this Act as a part of the cost of construction of the project for which a land acquisition program is initiated, or as part of the cost of any other program which displaces persons. Any funds appropriated or otherwise available to any State agency for a particular program or project shall be available also for obligation and expenditure to carry out the provisions of this Act as applied to that program or project.

SECTION 12. Appeals. Any person aggrieved by a State agency's determination concerning eligibility for an amount of relocation payments authorized by this Act may appeal such determination to the circuit court of the circuit in which the displaced person then resides. The appeal shall be made pursuant to the Administrative Procedure Act set forth in chapter 91, Hawaii Revised Statutes.

SECTION 13. Appropriation. The sum of \$5,000, or so much thereof as shall be necessary, is appropriated from the general revenues of the State of Hawaii, to be expended by the Hawaii housing authority for the purposes of this Act.

SECTION 14. Severability. If any of the provisions of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application and to this end the provisions of this Act are severable.

SECTION 15. Effective date. This Act shall take effect upon its approval.
(Approved June 25, 1970.)

ACT 167

S. B. NO. 1865-70

A Bill for an Act Making an Appropriation for the Community Colleges, State of Hawaii.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. There is appropriated or authorized, as the case may be, out of the general revenues or the general obligation bond fund of the State of Hawaii the following sums, or so much thereof as may be necessary, for the following projects for the community colleges, University of Hawaii, State of Hawaii. General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance the projects contained herein, provided that the sum total of the general fund revenues used and general obligation bonds issued shall not exceed \$15,759,000.

Statewide

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| 1. Minor CIP Projects, Community College System, Statewide—
Plans and construction for improvements to existing facilities
and grounds including furniture and equipment, and construction of relocatable classrooms. | \$230,000 |
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| 2. New Campuses, Oahu—Plans for the development of new campuses. | \$100,000 |
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Honolulu Community College

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| 3. Furniture and equipment, Honolulu Community College—Purchase of furniture and equipment for general instructional areas, including cosmetology and apparel trades building. | 130,000 |
| 4. Relocatable units, Honolulu Community College—Plans and construction. | 130,000 |
| 5. Campus Center, Honolulu Community College—Plans for a student center-cafeteria building. | 60,000 |
| 6. Administration Building, Honolulu Community College—Plans for an administration building. | 70,000 |
| 7. Library-Classroom Building, Honolulu Community College—Construction of the library-classroom building. | 3,500,000 |
| 8. Land acquisition, Honolulu Community College—Appraisal and acquisition of land for expansion of the Honolulu Community College, including the apartment buildings located on an old railroad right of way, and two parcels on the Waikiki end of the present campus. | 1,200,000 |
| 9. Trade Industrial Complex, Honolulu Community College—Plans and construction of a trade industrial complex. | 150,000 |
| 10. Site development and landscaping, Honolulu Community College. | 100,000 |
| 11. Aerotechnology school relocation, Honolulu Community College. | 1,000 |

Kapiolani Community College

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| 12. Various Campus Improvements, Kapiolani Community College—Construction of relocatable buildings, improvements to existing facilities, site development and landscaping. | 200,000 |
| 13. Relocatable units, Kapiolani Community College—Plans, construction and purchase of furniture and equipment. | 50,000 |
| 14. Kapiolani Community College—Supplemental funds for completing of business offices and student services building. | 160,000 |

Leeward Community College

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| 15. Furniture and equipment, Leeward Community College—Purchase of furniture and equipment for the campus center, business education and social sciences, fine arts, and language arts buildings. | 373,000 |
| 16. Classroom Facilities Including Auditorium, Leeward Community College—Construction of classroom and auditorium-theater. | 2,836,000 |
| 17. Site Development, Leeward Community College—Incremental site development, including landscaping. | 285,000 |
| 18. General Instructional Facilities, Leeward Community College—Incremental development of science lab and classrooms. | 60,000 |

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19. Conversion of Existing Library Facilities, Leeward Community College—Plans and construction.	\$ 250,000
Windward Community College	
20. Development of New Campus, Windward Community College—Plans and construction of first increment of new campus.	500,000
Maui Community College	
21. Furniture and Equipment, Maui Community College—Purchase of furniture and equipment for campus center and library buildings.	270,000
22. Classroom Facilities, Maui Community College—Plans and construction of lecture hall and classrooms, including furniture and equipment.	248,000
23. Administration Building, Maui Community College—Plans for an administration building.	40,000
24. Improvements and Renovation of Existing Facilities, Maui Community College—Plans and construction of improvements and renovations to existing facilities including furniture and equipment.	50,000
25. Site Development, Maui Community College—Incremental site development and landscaping of campus.	350,000
26. Community Service Building, Maui Community College—Plans, construction, furniture and equipment for a community service building.	100,000
Hawaii Community College	
27. Modernization of Existing Facilities, Hawaii Community College—Plans and construction of improvements and renovations of existing facilities, including site development and landscaping.	200,000
28. Planning and Construction of New Facilities, Hawaii Community College—Planning, construction, equipment and furniture for additional facilities, including classrooms, laboratories, auditorium, student center, and library. Prior appropriations for Hawaii Technical School may be used for this purpose.	500,000
Kauai Community College	
29. Classroom Facilities, Kauai Community College—Plans and construction of relocatable classrooms, and/or improvements and renovations to existing facilities, including furniture and equipment.	116,000
30. New Kauai Community College.	2,500,000
31. Kauai Community College—Plans, construction and purchase of furniture and equipment to supplement prior appropriation.	1,000,000

SECTION 2. The appropriations and authorizations in section 1 may include land purchase, plans, site preparation, improvements to land, construc-

tion, and necessary equipment as approved by the governor when riders to authorizations are not specific.

SECTION 3. In the event that funds are not allotted by the governor for a project in section 1 during the period ending June 30, 1974, authorizations and appropriations for such project shall lapse as of June 30, 1974, provided that authorizations and appropriations which supplement previously authorized projects shall not lapse.

SECTION 4. If any portion of this Act or its application to any persons or circumstances is held to be invalid for any reason, then the legislature hereby declares that the remainder of this Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objectives of such appropriation to the extent possible.

SECTION 5. The sums appropriated shall be expended by the department of accounting and general services for the purpose of this Act.

SECTION 6. This Act shall take effect upon its approval.
(Approved June 29, 1970.)

ACT 168

S. B. NO. 1650-70

A Bill for an Act Relating to Vehicle Gross Weight, Axle, and Wheel Loads.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 291-35, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 291-35. Gross weight, axle, and wheel loads. No motor vehicle or other power vehicle or combination of such vehicles equipped wholly with pneumatic tires, which has a total gross weight, including vehicle and load, an axle load or a wheel load in excess of the limits set forth in this section shall be operated or moved upon any public road, street, or highway within the State, provided, that the maximum gross weights, axle loads and wheel loads allowed under this section shall be inapplicable when its application would adversely affect the receipt of federal funds for highway purposes; and provided further, that no vehicle or combination of vehicles shall be operated on or moved over any bridge or other highway structure if the total gross weight, including vehicle and load, exceeds the posted maximum gross load limitation for the bridge or other highway structure.

(1) The total gross weight of any vehicle or combination of vehicles shall not exceed that determined by the formula $W = 800(L + 40)$; in which 'W' is the total gross weight, including vehicle and load, and 'L' is the distance in feet between the first and last axles of the vehicle or combination of vehicles; provided that, vehicles or a combination of vehicles with three, four, or five axles having a single axle weight of not more than eighteen thousand pounds and a distance from the first axle to the last axle of nineteen feet or greater but

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less than fifty-two feet, shall be permitted to be operated or moved upon any public road, street, or highway within the State although the vehicles' total gross weight exceeds that determined by the above formula if the axle weights of the vehicle or combination of vehicles do not exceed the allowable limits shown on the following table:

TABLE OF ALLOWABLE MAXIMUM WEIGHTS

Distance to the nearest foot measured between any 3 or more consecutive axles	Allowable weight in pounds for any group of 3 or more consecutive axles		
	3-Axles	4-Axles	5-Axles
19	48,000	52,500	Not Permitted
20	49,000	53,500	
21	49,500	54,000	
22	50,500	54,500	
23	51,000	55,500	
24	52,000	56,000	
25	52,500	56,500	
26	53,500	57,500	
27	54,000	58,000	
28		58,500	
29		59,500	
30		60,000	
31		60,500	
32		61,500	
33		62,000	
34		62,500	
35		63,500	
36		64,000	
37		64,500	
38		65,500	69,500
39		66,000	70,500
40		66,500	71,000
41		67,000	71,500
42		68,000	72,000
43		68,500	73,000
44		69,500	73,280
45		70,000	73,280
46		70,500	73,280
47		71,500	73,280
48		72,000	73,280
49		72,500	73,280
50		73,280	73,280
51		73,280	73,280

Provided, that no vehicle or combination of vehicles shall be used or operated (A) with a load upon any single or tandem axle or combination of axles which exceeds the carrying capacity of the axles specified by the manufacturer, or (B) with a total weight in excess of its designed capacity as indicated by its designed gross vehicle weights or gross combination weights; and provided further, that operators of vehicles under the jurisdiction of the public utilities commission shall file with the commission a copy of the design specifications of the manufacturer or other evidence of the designed gross vehicle weight or gross combination weight.

(2) The total gross weight upon any two or more consecutive axles of any such vehicle or combination of vehicles, when the distance between the first and last axles of the two or more axles is thirteen feet or less, shall not exceed that determined by the following formula:

$W = 700(L + 40)$; in which 'W' is the total gross weight imposed upon the highway by the group of axles under consideration, and 'L' is the distance in feet between the first and last axles of the group of axles under consideration; provided that this formula shall not apply to vehicles operating on state highways when 'L' is less than six feet, but the maximum weight allowable in such case shall be thirty-two thousand pounds.

(3) When the operation of any such vehicle or combination of vehicles is limited to a section of public highway along which there is no structure having an overall length of twenty feet or greater, measured along a line parallel to the center line of the highway, the total gross weight of the vehicle or combination of vehicles shall not exceed that determined by the following formula:

$W = 900(L + 40)$; in which 'W' is the total gross weight, including vehicle and load, and 'L' is the distance in feet between the first and last axles of the vehicle or combination of vehicles.

Operators of vehicles or combination of vehicles whose operations are limited to the above sections of highways and desiring to operate under this paragraph shall first secure written permits from the state department of transportation, in the case of state highways, or from the county engineer or his representative, in the case of county roads, to operate the same within the section specified. These permits shall be good for a period of one year from date of issue or until revoked by the issuing authority. No fee shall be required for such permits.

The owner of any vehicle or combination of vehicles operating under the conditions set forth in this paragraph whose vehicle or combination of vehicles shall be found operating over sections of highway not covered by his permit shall be subject to the penalties provided in section 291-37.

(4) The total gross load imposed upon the highway by any single axle shall not exceed twenty-four thousand pounds. For the purposes of this paragraph, axles placed in the same transverse plane which are closer than forty-two inches shall be considered as one axle.

(5) The total gross load imposed upon the highway by any one wheel, either single or dual mounting, shall not exceed twelve thousand pounds.

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(6) The total average unit pressure imposed upon the highway by any individual tire shall not exceed sixty pounds per square inch of tire contact area with pavement.

Computation of tire contact area shall be made in accordance with the following formula:

Solid tires $\text{Area} = 1.2566w^2$

Cushion tires $\text{Area} = 1.4922w^2$

Pneumatic tires $\text{Area} = 1.5708w^2$

in which 'W' is the measured width in inches of loaded tire impression upon a plane surface."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 29, 1970.)

ACT 169

H. B. NO. 1925-70

A Bill for an Act Declaring the Invalidity of Certain Indemnity Agreements in the Construction Industry.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to invalidate, as against public policy, the prevalent practice in the construction industry of causing contractors to assume liability for the negligence of others by contract. Such so-called "hold harmless" agreements are usually incorporated into contracts for construction projects on a "take-it-or-leave-it" basis; (i.e., to take out the necessary insurance or leave the bidding to someone else), and frequently require the contractor, engineer or architect, for example, to undertake assumption of liability for personal injury or property damage even where the same results from the "sole negligence" of persons over whom the indemnitor has no control or right of control. This practice is, and precipitates further, a form of economic coercion by placing contractors in the inequitable position of paying prohibitive insurance premiums, which, if a small contractor cannot afford, precludes him from performing upon a project for which he is otherwise qualified, thereby effectively disenfranchising him under a system of free enterprise. In an economy in which the construction industry contributes so significantly, this practice can only be considered as contrary to the public interest.

This Act does not serve to relieve a contractor from liability when he is negligent; but when he is not, it places the responsibility for injury or damage where it properly belongs, any promise of indemnification notwithstanding.

SECTION 2. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

* Edited accordingly

"Sec. 431- . Construction industry; indemnity agreements invalid. Any covenant, promise, agreement or understanding in, or in connection with or collateral to, a contract or agreement relative to the construction, alteration, repair or maintenance of a building, structure, appurtenance or appliance, including moving, demolition or excavation connected therewith, purporting to indemnify the promisee against liability for bodily injury to persons or damage to property caused by or resulting from the sole negligence or wilful misconduct of the promisee, his agents or employees, or indemnitee, is invalid as against public policy, and is void and unenforceable; provided, however, that this section shall not affect any valid workmen's compensation claim under chapter 386 or any other insurance contract or agreement issued by an admitted insurer upon any insurable interest under this chapter."

SECTION 3. This Act shall take effect with respect to covenants, promises, agreements or understandings which are the subject hereof made or executed from and after the effective date of this Act.

SECTION 4. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 5. This Act shall take effect upon its approval.

(Approved June 29, 1970.)

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S. B. NO. 1283-70

A Bill for an Act Relating to Manpower and Full Employment.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 202-1, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 202-1 Commission; appointment; tenure. The State manpower advisory committee established by the governor, July, 1963, is hereby constituted as the advisory commission on manpower and full employment. The commissioners shall be appointed as provided for in section 26-34. The governor shall appoint the chairman of the commission. The commission shall be composed of not less than 12 members and not more than 18 members. The members shall be selected on the basis of their interest in and knowledge of the interrelations amongst the technological, economic, and social systems and on the basis of their ability to contribute to solution of difficulties arising from the new techniques and the proliferation of manpower problems including the problems of the hard to employ. The members of the advisory commission shall represent labor, management, agriculture, education, training, and the public in general. The commission shall also fulfill the advisory functions specified by federal laws relating to vocational education and shall be constituted so it shall comply in all respects with the membership provisions for the State advisory council on vocational education required by the Federal Vocational Act of 1963, as amended by P. L. 90-576 and as it may be further amended from time to time.

* Edited accordingly

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The members shall serve without compensation but shall be paid per diem and travel expenses when attending meetings of the commission."

SECTION 2. Section 202-2, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 202-2 Duties of commission. The advisory commission on manpower and full employment shall:

- (1) Identify and assess the past effects and the current and prospective role and pace of technological change;
- (2) Identify and describe the impact of technological and economic change on production and employment, including new job requirements and the major types of worker displacement, both technological and economic, which are likely to occur during the next ten years; the specific industries, occupations, and geographic areas which are most likely to be involved; and the social and economic effects of these developments on the State's economy, manpower, communities, families, social structure, and human values;
- (3) Define those areas of unmet community and human needs toward which application of new technologies might most effectively be directed;
- (4) Recommend specific administrative and legislative steps which it believes should be taken by the State government in meeting its responsibilities (A) to promote occupational training and skill development programs appropriate to the State's needs and resources, (B) to encourage a program of useful research into the State's manpower requirements, development, and utilization, (C) to support and promote technological change in the interest of continued economic growth and improved well-being of our people, (D) to continue and adopt measures which will facilitate occupational adjustment and geographical mobility, and insure full employment, and (E) to explore and evaluate various methods of sharing the cost of preventing and alleviating the adverse impact of change on displaced workers;
- (5) Create public awareness and understanding of the problems and potentials of the new technologies;
- (6) Submit an annual report with recommendations to the governor and the legislature;
- (7) Be the responsible body for planning, reviewing and evaluating all State and federal manpower programs; and
- (8) Prepare and submit to the governor, an annual comprehensive statewide manpower plan."

SECTION 3. Section 202-5, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 202-5 Organizational relationships. The advisory commission on manpower and full employment is placed within the office of the governor and shall act in an advisory capacity to the governor.”

SECTION 4. Section 202-6, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 202-6 Interagency Committee. There shall be a state interagency committee consisting of the governor’s administrative director, the heads of the departments of agriculture, education, social services, labor and industrial relations, planning and economic development, health, personnel services, the directors of the Hawaii office of economic opportunity law enforcement and juvenile delinquency agency, commission on aging, the executive officer of the State vocational education coordinating committee, the executive secretary of the commission on children and youth, and the president of the university of Hawaii or his designated representative, and others as may be indicated. The interagency committee shall advise the advisory commission on manpower and full employment, maintain effective liaison with the resources of such departments and agencies, and coordinate their plans, policies, and actions that bear on comprehensive manpower planning and implementation of programs.”

SECTION 5. The secretariat of the State cooperative manpower study plan system committee (C.A.M.P.S.) is hereby transferred to the advisory commission on manpower and full employment. The staff of the secretariat shall be a responsibility of and report to the commission.

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 7. This Act shall take effect on July 1, 1970.

(Approved June 29, 1970.)

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S. B. NO. 1696-70

A Bill for an Act Relating to Collective Bargaining in Public Employment.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to implement the constitutional mandate of Article XII, section 2, which grants public employees the right to organize for the purpose of collective bargaining as prescribed by law.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER

COLLECTIVE BARGAINING IN PUBLIC EMPLOYMENT

Sec. -1. Statement of findings and policy. The legislature finds that joint-decision making is the modern way of administering government. Where public employees have been granted the right to share in the decision-making

* Edited accordingly

process affecting wages and working conditions, they have become more responsive and better able to exchange ideas and information on operations with their administrators. Accordingly, government is made more effective. The legislature further finds that the enactment of positive legislation establishing guidelines for public employment relations is the best way to harness and direct the energies of public employees eager to have a voice in determining their conditions of work, to provide a rational method for dealing with disputes and work stoppages, and to maintain a favorable political and social environment.

The legislature declares that it is the public policy of the State to promote harmonious and cooperative relations between government and its employees and to protect the public by assuring effective and orderly operations of government. These policies are best effectuated by (1) recognizing the right of public employees to organize for the purpose of collective bargaining, (2) requiring the public employers to negotiate with and enter into written agreements with exclusive representatives on matters of wages, hours, and other terms and conditions of employment, while, at the same time, (3) maintaining merit principles and the principle of equal pay for equal work among state and county employees pursuant to sections 76-1, 76-2, 77-31, and 77-33, and (4) creating a public employment relations board to administer the provisions of this chapter.

Sec. -2. Definitions. As used in this chapter:

- (1) "Arbitration" means the procedure whereby parties involved in an impasse mutually agree to submit their differences to a third party for a final and binding decision.
- (2) "Appropriate bargaining unit" means the unit designated to be appropriate for the purpose of collective bargaining pursuant to section -6.
- (3) "Board" means the Hawaii public employment relations board created pursuant to section -5.
- (4) "Certification" means official recognition by the Hawaii public employment relations board that the employee organization is, and shall remain, the exclusive representative for all of the employees in an appropriate bargaining unit for the purpose of collective bargaining, until it is replaced by another employee organization, decertified, or dissolves.
- (5) "Collective bargaining" means the performance of the mutual obligations of the public employer and the exclusive representative to meet at reasonable times, to confer and negotiate in good faith, and to execute a written agreement with respect to wages, hours, and other terms and conditions of employment, except that by any such obligation neither party shall be compelled to agree to a proposal, or be required to make a concession.
- (6) "Cost items" includes wages, hours, and other terms and conditions of employment, the implementation of which requires an appropriation by a legislative body.

- (7) "Employee" or "public employee" means any person employed by a public employer except elected and appointed officials and such other employees as may be excluded from coverage in section -6(c).
- (8) "Employee organization" means any organization of any kind in which public employees participate and which exists for the primary purpose of dealing with public employers concerning grievances, labor disputes, wages, hours, and other terms and conditions of employment of public employees.
- (9) "Employer" or "public employer" means the governor in the case of the State, the respective mayors in the case of the city and county of Honolulu and the counties of Hawaii, Maui, and Kauai, the board of education in the case of the department of education, and the board of regents in the case of the university of Hawaii, and any individual who represents one of these employers or acts in their interest in dealing with public employees.
- (10) "Exclusive representative" means the employee organization, which as a result of certification by the board, has the right to be the collective bargaining agent of all employees in an appropriate bargaining unit without discrimination and without regard to employee organization membership.
- (11) "Fact-finding" means identification of the major issues in a particular impasse, review of the positions of the parties and resolution of factual differences by one or more impartial fact-finders, and the making of recommendations for settlement of the impasse.
- (12) "Impasse" means failure of a public employer and an exclusive representative to achieve agreement in the course of negotiations.
- (13) "Legislative body" means the legislature in the case of the State, the city council in the case of the city and county of Honolulu, and the respective county councils in the case of the counties of Hawaii, Maui, and Kauai.
- (14) "Mediation" means assistance by an impartial third party to reconcile an impasse between the public employer and the exclusive representative regarding wages, hours, and other terms and conditions of employment through interpretation, suggestion, and advice to resolve the impasse.
- (15) "Professional employee" includes (A) any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work, (ii) involving the consistent exercise of discretion and judgment in its performance, (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time, (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of

specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; or (B) any employee, who (i) has completed the courses of specialized intellectual instruction and study described in clause (A) (iv), and (ii) is performing related work under the supervision of a professional employee as defined in (A).

- (16) "Service fee" means an assessment of all employees in an appropriate bargaining unit to defray the cost for services rendered by the exclusive representative in negotiations and contract administration.
- (17) "Strike" means a public employee's refusal, in concerted action with others, to report for duty, or his wilful absence from his position, or his stoppage of work, or his abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in the conditions, compensation, rights, privileges, or obligations of public employment; provided, that nothing herein shall limit or impair the right of any public employee to express or communicate a complaint or opinion on any matter related to the conditions of employment.
- (18) "Supervisory employee" means any individual having authority in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to assign work to and direct them, or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Sec. -3. Rights of employees. Employees shall have the right of self-organization and the right to form, join, or assist any employee organization for the purpose of bargaining collectively through representatives of their own choosing on questions of wages, hours, and other terms and conditions of employment, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection, free from interference, restraint, or coercion. An employee shall have the right to refrain from any or all of such activities, except to the extent of making such payment of service fees to an exclusive representative as provided in section -4.

Sec. -4. Payroll deductions. (a) The employer shall, upon receiving from an exclusive representative a written statement which specifies an amount of reasonable service fees necessary to defray the costs for its services rendered in negotiating and administering an agreement and computed on a pro rata basis among all employees within its appropriate bargaining unit, deduct from the payroll of every employee in the appropriate bargaining unit the amount of service fees and remit the amount to the exclusive representative. A deduction

permitted by this section, as determined by the board to be reasonable, shall extend to any employee organization chosen as the exclusive representative of an appropriate bargaining unit. If an employee organization is no longer the exclusive representative of the appropriate bargaining unit, the deduction shall terminate.

(b) In addition to any deduction made to the exclusive representative under subsection (a), the employer shall, upon written authorization by an employee, deduct from the payroll of the employee the amount of membership dues, initiation fees, group insurance premiums, and other association benefits and shall remit the amount to the employee organization designated by the employee.

(c) The employer shall continue all payroll assignments authorized by an employee prior to the effective date of this chapter and all assignments authorized under subsection (b) until notification is submitted by an employee to discontinue his assignments.

Sec. -5. Hawaii public employment relations board. (a) There is created a Hawaii public employment relations board composed of five members of which (1) two members shall be representatives of management, (2) two members shall be representatives of labor, and (3) a fifth member, the chairman, shall be representative of the public. All members shall be appointed by the governor for terms of six years each, except that the terms of members first appointed shall be for two, three, four, five, and six years respectively as designated by the governor at the time of appointments. Public employers and employee organizations representing public employees may submit to the governor for consideration names of persons representing their interests to serve as members of the board and the governor shall first consider these persons in selecting the members of the board to represent management and labor. Each member shall hold office until his successor is appointed and qualified. Because cumulative experience and continuity in office are essential to the proper administration of this chapter, it is declared to be in the public interest to continue board members in office as long as efficiency is demonstrated, notwithstanding the provision of section 26-34, which limits the appointment of a member of a board or commission to two terms.

The members shall devote full time to their duties as members of the board. The chairman of the board shall be paid a salary at the rate of ninety-five per cent of the salary of a circuit court judge. Each of the other members shall be paid a salary at a rate of ninety per cent of the chairman's salary. No member shall hold any other public office or be in the employment of the State or a county, or any department or agency thereof, or any employee organization during his term.

Any action taken by the board shall be by a simple majority of the members of the board. All decisions of the board shall be reduced to writing and shall state separately its finding of fact and conclusions. Three members of the board, consisting of the chairman, at least one member representative of management, and at least one member representative of labor, shall constitute a quorum. Any vacancy in the board, shall not impair the authority of the re-

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maintaining members to exercise all the powers of the board. The governor may appoint an acting member of the board during the temporary absence from the State or the illness of any regular member. An acting member, during his term of service, shall have the same powers and duties as the regular member.

The chairman of the board shall be responsible for the administrative functions of the board. The board may appoint an executive officer, mediators, members of fact-finding boards, arbitrators, and hearings officers, and employ other assistants as it may deem necessary in the performance of its functions, prescribe their duties, and fix their compensation and provide for reimbursement of actual and necessary expenses incurred by them in the performance of their duties within the amounts made available by appropriations therefor.

The board shall be within the department of labor and industrial relations for budgetary and administrative purposes only. The members of the board and the employees of the board shall be exempt from chapters 76 and 77.

At the close of each fiscal year, the board shall make a written report to the governor of such facts as it may deem essential to describe its activities, including the cases and their dispositions, and the names, duties, and salaries of its officers and employees. Copies of the report shall be transmitted to the legislative bodies and to the public management committee.

(b) In addition to the powers and functions provided in other sections of this chapter, the board shall:

- (1) Establish procedures for, investigate, and resolve, any dispute concerning the designation of an appropriate bargaining unit and the application of section -6 to specific employees and positions;
- (2) Resolve any dispute concerning cost items;
- (3) Establish procedures for, resolve disputes with respect to, and supervise the conduct of, elections for the determination of employee representation;
- (4) Conduct proceedings on complaints of prohibited practices by employers, employees, and employee organizations and take such actions with respect thereto as it deems necessary and proper;
- (5) Hold such hearings and make such inquiries, as it deems necessary, to carry out properly its functions and powers, and for the purpose of such hearings and inquiries, administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, compel attendance of witnesses and the production of documents by the issuance of subpoenas, and delegate such powers to any member of the board or any person appointed by the board for the performance of its functions;
- (6) Establish, after reviewing nominations submitted by the public employers and employee organizations, lists of qualified persons, broadly representative of the public, to be available to serve as mediators, members of fact-finding boards, or arbitrators;

- (7) Establish daily or hourly rates at which mediators, members of fact-finding boards, and arbitrators are to be compensated and apportion the costs of arbitration to the parties involved;
- (8) Conduct studies on problems pertaining to public employee-management relations, and make recommendations with respect thereto to the legislative bodies; request information and data from state and county departments and agencies and employee organizations necessary to carry out its functions and responsibilities; make available to the public management committee, employee organizations, as may exist, mediators, members of fact-finding boards, arbitrators, and other concerned parties statistical data relating to wages, benefits, and employment practices in public and private employment to assist them in resolving issues in negotiations;
- (9) Promulgate rules and regulations relative to the exercise of its powers and authority and to govern the proceedings before it in accordance with chapter 91.

Sec. -6. Appropriate bargaining units. (a) All employees throughout the State within any of the following categories shall constitute an appropriate bargaining unit:

- (1) Nonsupervisory employees in blue collar positions;
- (2) Supervisory employees in blue collar positions;
- (3) Nonsupervisory employees in white collar positions;
- (4) Supervisory employees in white collar positions;
- (5) Teachers and other personnel of the department of education under the same salary schedule;
- (6) Educational officers and other personnel of the department of education under the same salary schedule;
- (7) Faculty of the University of Hawaii and the community college system;
- (8) Personnel of the University of Hawaii and the community college system, other than faculty;
- (9) Registered professional nurses;
- (10) Nonprofessional hospital and institutional workers;
- (11) Firemen;
- (12) Policemen; and
- (13) Professional and scientific employees, other than registered professional nurses.

Because of the nature of work involved and the essentiality of certain occupations which require specialized training, units (9) through (13) are desig-

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nated as optional appropriate bargaining units. Employees in any of these optional units may either vote for separate units or for inclusion in their respective units (1) through (4). If a majority of the employees in any optional unit desire to constitute a separate appropriate bargaining unit, supervisory employees may be included in the unit by mutual agreement among supervisory and nonsupervisory employees within the unit; if supervisory employees are excluded, the appropriate bargaining unit for such supervisory employees shall be (2) or (4), as the case may be.

The compensation plans for blue collar positions pursuant to section 77-5 and for white collar positions pursuant to section 77-13, the salary schedules for teachers pursuant to section 297-33 and for educational officers pursuant to section 297-33.1, and the appointment and classification of faculty pursuant to sections 304-11 and 304-13, existing on the effective date of this chapter, shall be the bases for differentiating blue collar from white collar employees, professional from nonprofessional employees, supervisory from nonsupervisory employees, teachers from educational officers, and faculty from nonfaculty. In differentiating supervisory from nonsupervisory employees, class titles alone shall not be the basis for determination, but, in addition, the nature of the work, including whether or not a major portion of the working time of a supervisory employee is spent as part of a crew or team with nonsupervisory employees, shall also be considered.

(b) For the purpose of negotiations, the public employer of an appropriate bargaining unit shall mean the governor or his designated representatives of not less than three together with not more than two members of the board of education in the case of units (5) and (6), the governor or his designated representatives of not less than three together with not more than two members of the board of regents of the university of Hawaii in the case of units (7) and (8), and the governor or his designated representatives together with the mayors of all the counties or their designated representatives in the case of the remaining units.

(c) No elected or appointed official, member of any board or commission, representative of a public employer, including the administrative officer, director, or chief of a state or county department or agency, or any major division thereof as well as his deputy, first assistant, and any other top-level managerial and administrative personnel, individual concerned with confidential matters affecting employee-employer relations, part time employee working less than twenty hours per week, temporary employee of three months duration or less, or any commissioned and enlisted personnel of the Hawaii national guard, shall be included in any appropriate bargaining unit or entitled to coverage under this chapter.

(d) Where any controversy arises under this section, the board shall, pursuant to chapter 91, make an investigation and, after a hearing upon due notice, make a final determination on the applicability of this section to specific positions and employees.

Sec. -7. Elections. Whenever, in accordance with regulations as may be prescribed by the board pursuant to chapter 91, a petition is filed by an employee organization after January 1, 1971, showing written proof of at least thirty per cent representation of the public employees in an appropriate bargaining unit, the board shall hold an election by secret ballot to determine whether and by which employee organization the employees desire to be represented for the purpose of collective bargaining. The ballot shall contain, in addition, both the name of any candidate showing written proof of at least ten per cent representation of the public employees within the unit, and a provision for marking "no representation".

In any election in which none of the choices on the ballot receives a majority of the votes cast, a runoff election shall be conducted, the ballot providing for a selection between the two choices receiving the largest number of valid votes cast in the election. The board shall certify the results of the election, and where an employee organization receives a majority of the votes cast, the board shall certify the employee organization as the exclusive representative of all employees in the appropriate bargaining unit for the purpose of collective bargaining.

No election shall be directed by the board in any appropriate bargaining unit within which (1) a valid election has been held in the preceding twelve months; or (2) a valid collective bargaining agreement is in force and effect, except upon a petition as provided herein not more than ninety days, but not less than sixty days, prior to the expiration of the agreement.

The board shall adopt rules and regulations governing the conduct of elections to determine representation, including the time, place, manner of notification, and reporting the results of elections, and the manner for filing any petition for an election or any petition concerning the results of an election. No mail ballots shall be permitted by the board except when for reasonable cause a specific individual would otherwise be unable to cast a ballot. The board shall have the final determination on any controversy concerning the eligibility of an employee to vote.

Sec. -8. Recognition and representation. (a) The employee organization which has been certified by the board as representing the majority of employees in an appropriate bargaining unit shall be the exclusive representative of all employees in the unit. As exclusive representative, it shall have the right to act for and negotiate agreements covering all employees in the unit and shall be responsible for representing the interests of all such employees without discrimination and without regard to employee organization membership.

(b) An individual employee may present a grievance at any time to his employer and have the grievance heard without intervention of an employee organization; provided that the exclusive representative is afforded the opportunity to be present at such conferences and that any adjustment made shall not be inconsistent with the terms of an agreement then in effect between the employer and the exclusive representative.

Sec. -9. Scope of negotiations. (a) The employer and the exclusive representative shall meet at reasonable times, including meetings in advance of the employer's budget-making process, and shall negotiate in good faith with respect to wages, hours, and other terms and conditions of employment which are subject to negotiations under this Act and which are to be embodied in a written agreement, or any question arising thereunder, but such obligation does not compel either party to agree to a proposal or make a concession.

(b) The employer or the exclusive representative desiring to initiate negotiations shall notify the other in writing, setting forth the time and place of the meeting desired and generally the nature of the business to be discussed, and shall mail the notice by certified mail to the last known address of the other party sufficiently in advance of the meeting.

(c) Except as otherwise provided herein, all matters affecting employee relations, including those that are, or may be, the subject of a regulation promulgated by the employer or any personnel director, are subject to consultation with the exclusive representatives of the employees concerned. The employer shall make every reasonable effort to consult with the exclusive representatives prior to effecting changes in any major policy affecting employee relations.

(d) Excluded from the subjects of negotiations are matters of classification and reclassification, retirement benefits and the salary ranges and the number of incremental and longevity steps now provided by law, provided that the amount of wages to be paid in each range and step and the length of service necessary for the incremental and longevity steps shall be negotiable. The employer and the exclusive representative shall not agree to any proposal which would be inconsistent with merit principles or the principle of equal pay for equal work pursuant to sections 76-1, 76-2, 77-31 and 77-33, or which would interfere with the rights of a public employer to (1) direct employees; (2) determine qualification, standards for work, the nature and contents of examinations, hire, promote, transfer, assign, and retain employees in positions and suspend, demote, discharge, or take other disciplinary action against employees for proper cause; (3) relieve an employee from duties because of lack of work or other legitimate reason; (4) maintain efficiency of government operations; (5) determine methods, means, and personnel by which the employer's operations are to be conducted; and take such actions as may be necessary to carry out the missions of the employer in cases of emergencies.

Sec. -10. Written agreements; appropriations for implementation; enforcement. (a) Any collective bargaining agreement reached between the employer and the exclusive representative shall be subject to ratification by the employees concerned. The agreement shall be reduced to writing and executed by both parties. The agreement may contain a grievance procedure and an impasse procedure culminating in final and binding arbitration, and shall be valid and enforceable when entered into in accordance with provisions of this chapter.

(b) All cost items shall be subject to appropriations by the appropriate legislative bodies. The employer shall submit within ten days of the date on

which the agreement is ratified by the employees concerned all cost items contained therein to the appropriate legislative bodies, except that if any cost items require appropriation by the State legislature and it is not in session at the time, the cost items shall be submitted for inclusion in the governor's next operating budget within ten days after the date on which the agreement is ratified. The State legislature or the legislative bodies of the counties acting in concert, as the case may be, may approve or reject the cost items submitted to them, as a whole. If the State legislature or the legislative body of any county rejects any of the cost items submitted to them, all cost items submitted shall be returned to the parties for further bargaining.

(c) Because effective and orderly operations of government is essential to the public, it is declared to be in the public interest that in the course of collective bargaining, the public employer and the exclusive representative shall make every reasonable effort to conclude negotiations, and include provisions for an effective date, a reopening date, and an expiration date, at a time to coincide, as nearly as possible, with the period during which the appropriate legislative bodies may act on the operating budget of the employers.

(d) All existing rules and regulations adopted by the employer, including civil service or other personnel regulations, which are not contrary to this chapter, shall remain applicable. If there is a conflict between the collective bargaining agreement and any of the rules and regulations, the terms of the agreement shall prevail; provided that the terms are not inconsistent with section 9(d).

Sec. -11. Resolution of disputes; grievances; impasses. (a) A public employer shall have the power to enter into written agreement with the exclusive representative of an appropriate bargaining unit setting forth a grievance procedure culminating in a final and binding decision, to be invoked in the event of any dispute concerning the interpretation or application of a written agreement. In the absence of such a procedure, either party may submit the dispute to the board for a final and binding decision. A dispute over the terms of an initial or renewed agreement does not constitute a grievance.

(b) A public employer shall have the power to enter into written agreement with the exclusive representative of an appropriate bargaining unit setting forth an impasse procedure culminating in a final and binding decision, to be invoked in the event of an impasse over the terms of an initial or renewed agreement. In the absence of such a procedure, either party may request the assistance of the board by submitting to the board and to the other party to the dispute a clear, concise statement of each issue on which an impasse has been reached together with a certificate as to the good faith of the statement and the contents therein. The board, on its own motion, may determine that an impasse exists on any matter in a dispute. If the board determines on its own motion that an impasse exists, it may render assistance by notifying both parties to the dispute of its intent.

The board shall render assistance to resolve the impasse according to the following schedule:

(1) Mediation. Assist the parties in a voluntary resolution of the impasse

by appointing a mediator or mediators, representative of the public, from a list of qualified persons maintained by the board, within three days after the date of the impasse, which shall be deemed to be the day on which notification is received or a determination is made that an impasse exists.

- (2) Fact-finding. If the dispute continues fifteen days after the date of the impasse, the board shall appoint, within three days, a fact-finding board of not more than three members, representative of the public, from a list of qualified persons maintained by the board. The fact-finding board, shall, in addition to powers delegated to it by the public employment relations board, have the power to make recommendations for the resolution of the dispute. The fact-finding board, acting by a majority of its members, shall transmit its findings of fact and any recommendations for the resolution of the dispute to both parties within ten days after its appointment. If the dispute remains unresolved five days after the transmittal of the findings of fact and any recommendations, the board shall publish the findings of fact and any recommendations for public information if the dispute is not referred to final and binding arbitration.
- (3) Arbitration. If the dispute continues thirty days after the date of the impasse, the parties may mutually agree to submit the remaining differences to arbitration, which shall result in a final and binding decision. The arbitration panel shall consist of three arbitrators, one selected by each party, and the third and impartial arbitrator selected by the other two arbitrators. If either party fails to select an arbitrator or for any reason there is a delay in the naming of an arbitrator, or if the arbitrators fail to select a neutral arbitrator within the time prescribed by the board, the board shall appoint the arbitrator or arbitrators necessary to complete the panel, which shall act with the same force and effect as if the panel had been selected by the parties as described above. The arbitration panel shall take whatever actions necessary, including but not limited to inquiries, investigations, hearings, issuance of subpoenas, and administering oaths, in accordance with procedures prescribed by the board to resolve the impasse. If the dispute remains unresolved within fifty days after the date of the impasse, the arbitration panel shall transmit its findings and its final and binding decision on the dispute to both parties. The parties shall enter into an agreement or take whatever action is necessary to carry out and effectuate the decision. All items requiring any monies for implementation shall be subject to appropriations by the appropriate legislative bodies, and the employer shall submit all such items agreed to in the course of negotiations within ten days to the appropriate legislative bodies.
- (4) The costs for mediation and fact-finding shall be borne by the board.

All other costs, including that of a neutral arbitrator, shall be borne equally by the parties involved in the dispute.

(c) If the parties have not mutually agreed to submit the dispute to final and binding arbitration, either party shall be free to take whatever lawful action it deems necessary to end the dispute; provided that no action shall involve the disruption or interruption of public services within sixty days after the fact-finding board has made public its findings of fact and any recommendations for the resolution of the dispute. The employer shall submit to the appropriate legislative bodies his recommendations for the settlement of the dispute on all cost items together with the findings of fact and any recommendations made by the fact-finding board. The exclusive representative may submit to the appropriate legislative body its recommendations for the settlement of the dispute on all cost items.

Sec. -12. Strikes, rights and prohibitions. (a) Participation in a strike shall be unlawful for any employee who (1) is not included in an appropriate bargaining unit for which an exclusive representative has been certified by the board, or (2) is included in an appropriate bargaining unit for which process for resolution of a dispute is by referral to final and binding arbitration.

(b) It shall be lawful for an employee, who is not prohibited from striking under paragraph (a) and who is in the appropriate bargaining unit involved in an impasse, to participate in a strike after (1) the requirements of section -11 relating to the resolution of disputes have been complied with in good faith, (2) the proceedings for the prevention of any prohibited practices have been exhausted, (3) sixty days have elapsed since the fact-finding board has made public its findings and any recommendation, (4) the exclusive representative has given a ten-day notice of intent to strike to the board and to the employer.

(c) Where the strike occurring, or is about to occur, endangers the public health or safety, the public employer concerned may petition the board to make an investigation. If the board finds that there is imminent or present danger to the health and safety of the public, the board shall set requirements that must be complied with to avoid or remove any such imminent or present danger.

(d) No employee organization shall declare or authorize a strike of employees, which is or would be in violation of this section. Where it is alleged by the employer that an employee organization has declared or authorized a strike of employees which is or would be in violation of this section, the employer may apply to the board for a declaration that the strike is or would be unlawful and the board, after affording an opportunity to the employee organization to be heard on the application, may make such a declaration.

(e) If any employee organization or any employee is found to be violating or failing to comply with the requirements of this section or if there is reasonable cause to believe that an employee organization or an employee is violating or failing to comply with such requirements, the board shall institute appropriate proceedings in the circuit in which the violation occurs to enjoin the performance of any acts or practices forbidden by this section, or to require the employee organization or employees to comply with the requirements of this

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section. Jurisdiction to hear and dispose of all actions under this section is conferred upon each circuit court, and each court may issue, in compliance with chapter 380, such orders and decrees, by way of injunction, mandatory injunction, or otherwise, as may be appropriate to enforce this section.

Sec. -13. Prohibited practices; evidence of bad faith. (a) It shall be a prohibited practice for a public employer or its designated representative wilfully to:

- (1) Interfere, restrain, or coerce any employee in the exercise of any right guaranteed under this chapter;
- (2) Dominate, interfere, or assist in the formation, existence, or administration of any employee organization;
- (3) Discriminate in regard to hiring, tenure, or any term or condition of employment to encourage or discourage membership in any employee organization.
- (4) Discharge or otherwise discriminate against an employee because he has signed or filed an affidavit, petition, or complaint or given any information or testimony under this chapter, or because he has informed, joined, or chosen to be represented by any employee organization;
- (5) Refuse to bargain collectively in good faith with the exclusive representative as required in section -9;
- (6) Refuse to participate in good faith in the mediation, fact-finding, and arbitration procedures set forth in section -11;
- (7) Refuse or fail to comply with any provision of this chapter;
- (8) Violate the terms of a collective bargaining agreement.

(b) It shall be a prohibited practice for a public employee or for an employee organization or its designated agent wilfully to:

- (1) Interfere, restrain, or coerce any employee in the exercise of any right guaranteed under this chapter;
- (2) Refuse to bargain collectively in good faith with the public employer, if it is an exclusive representative, as required in section -9;
- (3) Refuse to participate in good faith in the mediation, fact-finding and arbitration procedures set forth in section -11;
- (4) Refuse or fail to comply with any provision of this chapter; or
- (5) Violate the terms of a collective bargaining agreement.

Sec. -14. Prevention of prohibited practices. Any controversy concerning prohibited practices may be submitted to the board in the same manner and with the same effect as provided in section 377-9. All references in section 377-9 to "board" shall include the Hawaii public employment relations board and "labor organization" shall include employee organization.

Sec. -15. Financial reports to employees. Every employee organization shall keep an adequate record of his financial transactions and shall make available annually, to the employees who are members of the organization, within sixty days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to accuracy by a certified public accountant. In the event of failure of compliance with this section, any employee within the organization may petition the public employment relations board for an order compelling such compliance. An order of the board on such petition shall be enforceable in the same manner as other orders of the board under this chapter.

Sec. -16. Public records and proceedings. The complaints, orders, and testimony relating to a proceeding instituted by the public employment relations board under section 377-9 shall be public records and be available for inspection or copying. All proceedings pursuant to section 377-9 shall be open to the public.

Sec. -17. List of employee organizations and exclusive representatives. The public employment relations board shall maintain a list of employee organizations. To be recognized as such and to be included in the list, an organization shall file with the board a statement of its name, the name and address of its secretary or other officer to whom notices may be sent, the date of its organization, and its affiliations, if any, with other organizations. No other qualifications for inclusion shall be required, but every employee organization shall notify the board promptly of any change of name or of the name and address of its secretary or other officer to whom notices may be sent, or of its affiliations.

The board shall indicate on the list which employee organizations are exclusive representatives of appropriate bargaining units, the effective dates of their certification, and the effective date and expiration date of any agreement reached between the public employer and the exclusive representative. Copies of the list shall be made available to interested parties upon request.

Sec. -18. Penalty. Any person who wilfully assaults, resists, prevents, impedes, or interferes with a mediator, member of the fact-finding board, or arbitrator, or any member of the public employment relations board or any of the agents or employees of the board in the performance of duties pursuant to this chapter shall be fined not more than \$500 or imprisoned not more than one year, or both.

Sec. -19. Chapter takes precedence, when. This chapter shall take precedence over all conflicting statutes concerning this subject matter and shall preempt all contrary local ordinances, executive orders, legislation, rules, or regulations adopted by the State, a county, or any department or agency thereof, including the departments of personnel services or the civil service commission.

Sec. -20. Chapter inoperative, when. If any provision of this chapter jeopardizes the receipt by the State or any county of any federal grant-in-aid or other federal allotment of money, the provision shall, insofar as the fund is jeopardized, be deemed to be inoperative.

Sec. -21. Severability. If any provision of this chapter, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable."

SECTION 3. Chapter 86, Hawaii Revised Statutes, is repealed.

SECTION 4. Appropriations. There is appropriated out of the general revenues of the State of Hawaii the sum of \$274,242 for the establishment and operation of the Hawaii public employment relations board in fiscal year 1970-71. In subsequent years, the governor shall include in his operating budget such sum as may be necessary for the continuation and operation of the Hawaii public employment relations board.

SECTION 5. Effective date. This Act shall take effect on July 1, 1970.
(Approved June 30, 1970.)

ACT 172

H. B. NO. 1265-70

A Bill for an Act Creating a Stadium Board and Making an Appropriation for a Stadium in the City and County of Honolulu.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. (a) There shall be within the department of budget and finance for administrative purposes only, a stadium board whose responsibility shall be to maintain, operate, and manage the stadium and facilities attached thereto. The board shall consist of nine members, of which three members shall be appointed by the governor, three members shall be appointed by the president of the senate and three members shall be appointed by the speaker of the house of representatives. Each member of the board shall have been a citizen of the United States and a resident of the State for at least five years next preceding his appointment. The president of the university of Hawaii and the superintendent of education shall be ex-officio members of the board but shall not vote.

(b) The chairman of the board shall be elected by the majority of the board. The term of each member shall be four years, provided that of the three members initially appointed by the governor, one member shall serve for four years, one member for three years and one member for two years, and of the three members initially appointed by the president of the senate, one member shall serve for four years, one member for three years and one member for two years and of the three members initially appointed by the speaker of the house of representatives, one member shall serve for four years, one member for three years, and one member for two years. No person shall be appointed consecutively to more than two terms as a member of the board. Vacancies shall be

filled for the remainder of any unexpired term in the same manner as original appointments.

(c) The members of the board shall serve without compensation and shall be allowed their actual and necessary expenses incurred in the performance of their duties.

SECTION 2. The powers and duties of the stadium board shall be as follows:

- (1) to maintain, operate and manage the stadium and related facilities.
- (2) to prescribe and collect rents, fees and charges for the use or enjoyment of the stadium or any of its facilities.
- (3) to make and execute contracts and other instruments necessary or convenient to exercise its powers under this Act and subject to any limitations in this Act, to exercise all powers necessary, incidental or convenient to carry out and effectuate the purposes and provisions of this chapter.
- (4) to make, amend and repeal in accordance with chapter 91 such rules and regulations as it may deem necessary.
- (5) to appoint a manager and a deputy manager who shall have such qualifications as the board deems necessary and who shall hold their respective offices at the pleasure of the board. The manager shall be exempt from the requirements of chapters 76 and 77 and shall receive such salary as the board may provide. The deputy manager shall be exempt from the requirements of chapter 76 but shall be subject to the position classification plan. The manager shall have full power to administer the affairs of the stadium and related facilities, subject to the direction and approval of the board. The manager shall, subject to the approval of the board, have power to appoint, suspend and discharge such other employees, subordinates and assistants as may be necessary for the proper conduct of the business of the board. All appointments, suspensions or discharges shall be made in conformity with the applicable provisions of chapters 76 and 77.

SECTION 3. There is created a special fund to be known as the stadium special fund into which funds collected by the board shall be deposited. The fund shall be applied, used and disposed of for the expenses of operation, maintenance, and management of the stadium and related facilities.

SECTION 4. There is hereby appropriated from moneys in the treasury received from general obligation bond funds the sum of \$10,400,000 for plans and construction of a stadium in the city and county of Honolulu, provided that pursuant to Resolution No. 100 adopted on March 24, 1970, the city and county of Honolulu turn over to the State all of the land acquired in Halawa for the stadium project and other studies made in connection therewith. The director of finance is authorized to issue general obligation bonds of the State in the amount of \$10,400,000 for the purpose of this Act. Funds authorized by

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Item 0-9 of Act 155, Session Laws of Hawaii 1969, shall be used to supplement this appropriation.

The director of finance is authorized to advance funds when required from the general fund to meet costs incurred while general obligation bonds are being used. All amounts advanced from the general fund shall be reimbursed upon receipt of amounts derived from the issuance of general obligation bonds.

SECTION 5. The sum appropriated in section 4 shall be expended by the department of accounting and general services.

SECTION 6. There is hereby appropriated out of the general revenues of the State the sum of \$100,000 to be deposited in the stadium special fund created in section 3.

SECTION 7. This Act shall take effect upon its approval.

(Approved June 30, 1970.)

ACT 173

H. B. NO. 2103-70

A Bill for an Act To Amend Subtitle 1 of Title 6, Hawaii Revised Statutes, by Adding Thereto a New Chapter Relating to Public Off-Street Parking Facilities for Counties.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Subtitle 1 of Title 6, HRS, is hereby amended by adding a new chapter and sections thereto to be appropriately numbered by the Revisor of Statutes, to read as follows:

“CHAPTER

“Sec. (1) **Public Off-Street Parking Facilities; Authorization by the Council.** The Council of any county may acquire the land for and authorize the improvement, construction, maintenance, repair and operation of public off-street parking facilities within the county. The term ‘public off-street parking facilities’ means and includes land necessary or convenient for public off-street parking, rights-of-way, streets, or alleys necessary or convenient for ingress to or egress from such public off-street parking facilities, buildings, equipment, or any other property necessary or convenient for off-street parking purposes.

“Sec. (2) **Public Off-Street Parking Facilities; Methods of Financing.** The Council of any county may finance the acquisition, improvement or construction of off-street parking facilities in the same manner as is permissible for any other type of public improvement so long as the applicable statutes and ordinances governing the particular method or methods of financing chosen are complied with; provided, however, that if the Council decides to finance the acquisition, improvement or construction of any off-street parking facility in whole or in part by the creation of a public off-street parking district in accordance with the county’s improvement by assessments ordinance, land owned by or in possession of the U.S. or any of its agencies or the State or any of its political subdivisions or agencies which cannot lawfully be made subject to as-

assessments against the land within a public off-street parking district, or any other land which in the judgment of the Council will not be benefited by the acquisition, improvement or construction of the public off-street parking facility shall not be included within the district; and provided further that land to be acquired for public off-street parking facilities shall not be assessed.

“Sec. (3) Public Off-Street Parking Facilities; Leasing of Space for Commercial Purposes. The Council of any county may require the Finance Director of the county to lease space within public off-street parking facilities for commercial purposes under the following circumstances:

- (1) Whenever the Council deems it in the public interest and convenient or necessary in order to utilize properly the property as an off-street parking facility, it may require the leasing of space in any of the facilities for use by the lessee for the sale of gasoline and petroleum products, the sale of automobile accessories, automobile repair or service, or any other garage and fueling services.
- (2) Whenever the Council deems it necessary and feasible for the financing or operation of public off-street parking facilities, it may require the leasing of portions of the facilities for any commercial use.

“Sec. (4) Public Off-Street Parking Facilities; Leasing of Space Above or Below Off-Street Parking Facilities. Whenever the Council decides that the space above or below any proposed or existing public off-street parking facility is not needed for additional parking and that it would be in the public interest it may require the Finance Director to lease the right to occupy and use such space for uses other than off-street parking together with the right to use and occupy such space within the parking facility as may be necessary for the purposes of access to and support of structures occupying the space above or below such parking facility.”

SECTION 2. Sections 66-6, 70-112 and 70-113, Hawaii Revised Statutes are hereby repealed.

SECTION 3. This Act shall take effect upon its approval.
(Approved June 30, 1970.)

ACT 174

H. B. NO. 1908-70

A Bill for an Act Relating to the Validity of Amendments to County General Plans.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. All amendments to the general plan of any county adopted by ordinance, the effective date of which was prior to the effective date of this Act, are hereby validated, ratified, approved, confirmed and legalized, notwithstanding the fact that the amendment process may have been pursuant to a general charter power to amend ordinances or otherwise may not have complied with pertinent and relevant requirements of the charter of such county for the adoption or amendment of its general plan.

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SECTION 2. The provisions of Section 1 shall not prevent any person whose vested rights have been substantially impaired thereby, and who prior to the enactment of any such amendment formally protested the same in person or in writing before the council of the county whose actions are being challenged, from filing suit within thirty days following the effective date of this Act before a court of competent jurisdiction to have such amendment declared invalid; provided, however, nothing herein contained shall be construed as creating any new cause of action or as validating or enlarging upon existing rights, if any, or as reviving or reinstating any cause of action now barred or otherwise incapable of being instituted or maintained.

SECTION 3. The provisions of this Act are declared to be severable and, if any word, sentence or section of this Act or the application thereof to any person, circumstance or property is held invalid for any reason, the validity of the remainder of this Act or the application of such portion to other persons, circumstances or property shall not be affected.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 30, 1970.)

ACT 175

H. B. NO. 1260-70

A Bill for an Act Making Appropriations out of the General Revenues and Approving Expenditures from Other Sources for the Fiscal Period Ending June 30, 1971.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The following sums, or so much thereof as shall be sufficient to accomplish the purposes or programs of the agencies designated therein, are hereby appropriated out of moneys in the treasury from general revenues and the expenditures from other sources of revenues designated herein are hereby approved for the fiscal period beginning July 1, 1970, and ending June 30, 1971:

EDUCATION

EDUCATION, DEPARTMENT OF

General Administration

State Administration

Staff Services

Curriculum Development and Evaluation

District Administration

Hawaii Curriculum Center

Total Requirements

Less Estimated Federal Funds:

Public Law 89-10, Title I, ESEA

Public Law 89-10, Title II, ESEA

Public Law 89-10, Title III, ESEA

Public Law 89-10, Title V, 503, ESEA

Public Law 89-10, Title VIII, ESEA

Public Law 85-606, Civil Defense

(11,763.3)

129,881,265

407,433(10.0)

2,907,497(162.0)

2,144,714(120.0)

3,478,303(256.5)

1,068,917(1.0)

10,006,864(549.5)

150,020

504

640,086

248,660

944

854

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Public Law 89-750, Title III, Adult Basic Education	2,779
Public Law 89-750, Title VI	1,428
Public Law 89-511, Library	1,220
Public Law 90-35, EDPA, B-2	137,741
Public Law 90-35, EDPA, COP	10,000
Public Law 90-576, Vocational Education	28,142
Public Law 88-452, Follow Through	1,202
Public Law 864, Title IIIa, NDEA	12,550
Public Law 88-452, Neighborhood Youth Corps	22,961
Public Law 89-564, Highway Safety Act	14,043
Less Estimated Special Funds:	
Act 4, Hawaiian Homes Commission Act	20,000
School Lunch Revenues	33,083(5.0)
Net Appropriation	8,680,647(544.5)
Instructional Services:	
Regular Education	103,222,138(8,960.0)
Special Education	6,528,680(531.0)
Compensatory Education	5,809,473(98.0)
Instructional Support	1,142,480(37.0)
Total Requirements	116,702,771(9,626.0)
Less Estimated Federal Funds:	
Public Law 90-576	310,895
Public Law 89-10, Title I, Projects	2,588,562
Public Law 88-452, Neighborhood Youth Corps	476,859
Public Law 88-452, Community Action Program	512,210
Public Law 88-452, Follow-Through	314,822
Public Law 89-10, Title VII	56,280
Public Law 90-35, Part B	155,407
Public Law 89-10, Title II, ESEA	259,161
Public Law 874, Impact Area Funds	8,500,000
Public Law 864, Title III, NDEA	191,045
Public Law 864, Title V, NDEA	85,880
Public Law 89-313	134,584
Public Law 89-564, Highway Safety Act	25,000
Public Law 89-10, Title III	85,000
Public Law 89-10, Title VI	113,023
Public Law 85-926	62,788
Public Law 89-10, Title V	31,954
Less Estimated Special Funds:	
Lahainaluna Farm Sales	5,000
Driver Education Fees	47,000
Net Appropriation	102,747,301(9,626.0)
General School Support	
School Lunch Services	13,010,766(897.5)
Custodial Services	5,346,909(880.6)
Student Transportation	2,818,444(6.0)
Total Requirements	21,176,119(1,784.1)
Less Estimated Federal Funds:	
Public Law 90-302, Administrative Expense Funds	12,000
Public Law 89-642, Non-Food Assistance	25,000
Public Law 89-642, Breakfast Program	34,944
Public Law 90-302, Section 13, Special Food Service	40,000
Less Estimated Special Funds:	
School Lunch Receipts	8,184,986(676.5)
Net Appropriation	12,879,189(1,107.6)
Adult Education	

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Total Requirements	1,415,607(23.0)
Less Estimated Federal Funds:	
Public Law 89-750, ABE	275,843(-)
Veterans Training	16,796(1.0)
Public Law 85-606, Civil Defense	30,425(2.0)
Public Law 90-576, Vocational Education	13,624(-)
Less Estimated Special Funds:	
Adult Education	110,662(1.0)
Net Appropriation	968,257(19.0)
Library Services	
Total Requirements	4,853,438(466.2)
Less Estimated Federal Funds:	
Public Law 89-511, Title I	142,449
Public Law 89-511, Title III, IV-A, IV-B	105,118
Net Appropriation	4,605,871(466.2)
Provided, that the department may recruit for and make commitments to fill new certificated instructional positions for the school year 1971-1972.	
Provided, further, that if a sum less than \$8,500,000 is provided by Congress under the provisions of Public Law 874, or any other public law which amends or supersedes Public Law 874, then the difference between \$8,500,000 and the sum so provided is hereby appropriated; and provided, further, that if a sum greater than \$8,500,000 is provided, then this appropriation shall be reduced to the extent the estimated sum of \$8,500,000 is exceeded for the fiscal year 1970-1971.	
Provided, further, that if a sum less than \$289,475 is provided by Congress under provisions of Public Law 864 or any other public law which amends or supersedes Public Law 864, then the difference between \$289,475 and the sum so provided is hereby appropriated; and provided, further, that if a sum greater than \$289,475 is provided then this appropriation shall be reduced to the extent the estimated sum of \$289,475 is exceeded for the fiscal year 1970-1971.	
Provided, further, that included in the appropriation of the department of education is the sum of \$2,818,444 for the school transportation of 26,498 students on a partial and full subsidy basis.	
Provided, further, that anything in the bill and the law, including Section 37-41, Hawaii Revised Statutes, to the contrary notwithstanding, funds authorized by this Act for the department of education which are unencumbered and unexpended on June 30, 1971, shall not lapse.	
Provided, further, that general fund appropriations be expended to the extent necessary to defray any and all costs of operating public school cafeterias in excess of the moneys received from the sale of meals, the sale of services, the federal government and from any other source.	
Provided, further, that the superintendent of education is authorized to create, with the approval of the governor, not more than 58 permanent or temporary positions to meet unanticipated workload increases or any other needs that may arise.	
Provided, further, that the sum of \$336,000 for financial aid to mental retardation associations shall be used on programs for the severely mentally retarded from ages 4 to 20 years and allocated on the basis of \$12,000 per class, per 12-month program and distributed quarterly in advance.	
Provided, further, that the sum of \$60,000 for financial aid to the special education center in Honolulu is to be allocated on the basis of \$12,000 per class per 12-month program and distributed quarterly in advance.	
Provided, further, that the department may hire up to 350 additional teachers for the three-on-two program. Funds for 150 teachers are included in this budget under instructional services. The department shall submit to the legislature at the 1971 session, a request for such supplemental appropriation as it may re-	

quire for the remaining 200 teachers.

Provided, further, that the full-time, part-time or temporary general aide and educational assistant positions funded by this part shall be hired on a contract basis and be exempt from chapters 76 and 77, Hawaii Revised Statutes, as amended.

Provided, further, that replacements for educational assistants hired from funds authorized by past legislatures will be hired on a contractual basis and be exempt from chapters 76 and 77, Hawaii Revised Statutes, as amended.

Provided, further, that the department may utilize either teachers, general aides, or educational assistants as it deems necessary for the effective implementation of the preparation period program.

	(4,333.80)
UNIVERSITY OF HAWAII	61,583,235
Instruction	28,396,671(1,813.79)
Research	9,963,150(557.45)
Extension and Public Service	5,435,036(255.50)
Community Colleges	10,944,763(661.50)
Leahi Hospital	3,736,692(389.25)
Institutional Support	19,398,242(934.87)
Total Requirements	77,874,554(4,612.36)
Less Estimated:	
Federal Funds:	
Morrill Act	277,785
Morrill-Nelson, Bankhead-Jones	215,000
Military Commutation	11,700
Higher Education Act of 1965 (Title I)	83,023
Higher Education Act of 1965 (Title II)	56,477(3.0)
Higher Education Act of 1965 (Title IV)	460,000
Indirect Cost Reimbursement	1,448,021(26.5)
Water Resources Research Act	100,000
Hatch Act	352,313(34.42)
Regional Research Fund	109,103
McIntire-Stennis Forestry	25,513
Smith-Lever Act	380,597(42.14)
Civil Defense	91,933(6.0)
Agricultural Marketing Act	16,718
Nutrition Education	27,144
Public Law 87-415, Manpower	
Development and Training Act	842,802(12.0)
Public Law 90-576, Vocational Education	544,027(10.0)
Post Office	7,500
Special Funds:	
Summer Session	1,508,704(9.0)
Labor-Management Education	9,840(1.0)
Division of Continuing Education and	
Community Service	1,067,870(20.0)
Advanced Management Program	163,545(1.0)
Small Business Management Program	44,809
Shops and School Lunch (Community Colleges)	122,162(1.0)
Student Housing	1,096,308(44.5)
Auxiliary Services Administration	31,942(3.0)
Transportation Services	149,035(8.0)
Food Services	162,739
Parking Operations	326,221(3.0)
Bookstore	2,940,955(45.0)
Faculty Housing	102,921(1.0)

ACT 175

Theatre Group	42,985
University of Hawaii Special Activities	100,000
Other Funds:	
Economic Education Trust Fund	15,449(1.0)
Hospital Receipts and Recoveries	1,956,546
Statistical and Computer Center Trust Fund	312,000
Intercollegiate Athletics Agency Fund	304,900(7.0)
Recharges	782,732
Net Appropriation	61,583,235(4,333.80)
Provided, that the university of Hawaii may recruit for and make commitments to fill new board of regents instructional positions for the fiscal year 1971-1972; provided, further, that appointments made under this authorization shall not become effective prior to July 1, 1971.	
Provided, further, that the amount of the appropriation necessary to obtain allotments of grants made by the United States government for agricultural extension service and agricultural experiment station operations shall be payable to the university of Hawaii, in toto , by single warrant, or by several warrants, representing periodic allotments but only if this is a necessary condition for receiving such federal allotments. Such disbursements of funds used to obtain the federal allotments may be regularly audited by the federal auditor and shall be subject to the same limitations as the character of expenditures of the federal funds which they offset.	
Provided, further, that the university may contract for instruction personnel from July 1, 1970 to June 30, 1971 where such personnel will experience hardship in re-locating to Hawaii.	
Provided, further, that if federal funds in the amounts designated under the Morrill-Nelson, Bankhead-Jones Act, Hatch Act, and Smith-Lever Act, are not received, then the difference between the amounts designated and the amount received is hereby appropriated.	
Provided, further, that the appropriation for leahi hospital is a supplement to the estimated receipts for the operation and maintenance of the hospital for fiscal year 1970-71; provided, further, that the appropriation for leahi hospital is intended for an average daily inpatient population of 295.	
Provided, further, that the legislative reference bureau may hire persons on contract, without regard to Chapters 76 and 77, Hawaii Revised Statutes, to provide aid in the typing and other preparation of reports, bills and resolutions during the fiscal year.	
Provided, further, that the total estimated amount of \$1,500,000 and any sum in excess of this amount received by the university for indirect overhead expenses on account of research and training grants and contracts engaged in by the university shall be retained and expended by the university except that no part of this excess sum shall be used for personal services.	
Provided, further, that the president of the university is authorized to create, with the approval of the governor, not more than 43 permanent or temporary positions to meet unanticipated workload increases or any other needs that may arise.	
Provided, further, that anything in the bill and the law, including section 37-41, Hawaii Revised Statutes, to the contrary notwithstanding, funds authorized by this act for the university of Hawaii which are unencumbered and unexpended on June 30, 1971, shall not lapse.	
Provided, further, that from the appropriation to the institutional support division, the sum of \$450,000 shall be deposited in the State higher education student loan fund as established by Act 230, Session Laws of Hawaii, 1969.	

DEVELOPMENT AND NATURAL RESOURCES

AGRICULTURE, DEPARTMENT OF

(254.5)
3,700,129

General Administration	
Net Appropriation	286,923(23)
Marketing and Consumer Services	
Administration	87,721(5)
Commodities	422,064(27.5)
Crop and Livestock Reporting	127,791(9)
Market News Service	48,216(4)
Total Requirements	685,792(45.5)
Less Estimated:	
Federal Funds	24,170
State - Coffee Inspection Fees	6,000
Net Appropriation	655,622(45.5)
Weights and Measures	
Net Appropriation	194,452(16.0)
Animal Industry	
Administration	57,552(5)
Livestock Disease Control	206,680(9.5)
Veterinary Laboratory	128,775(9)
Inspection and Quarantine	509,301(35)
Meat Inspection	618,219(46)
Meat Grading	21,000
Total Requirements	1,541,527(104.5)
Less Estimated:	
Trust Funds	14,000
Federal Funds - Meat Inspection	329,171
Net Appropriation	1,198,356(104.5)
Plant Industry	
Administration	55,455(5)
Plant Quarantine Inspection	387,232(33.75)
Entomology	228,998(16)
Weed, Seed, and Herbicide	114,650(4.75)
Total Requirements	786,335(59.5)
Less Estimated Federal Funds	6,000
Net Appropriation	780,335(59.5)
Milk Control	
Net Appropriation	84,441(6)
Farm Loan	
Administration	131,533(7)
Farm Loan	1,570,000
Total Requirements	1,701,533(7)
Less Estimated:	
Farm Loan Reserve Fund	131,533(7)
Farm Loan Revolving Fund	1,070,000
Net Appropriation	500,000
Provided, that in the commodities program, the sum of \$6,000 provided for Kona coffee inspection shall be contingent on industry meeting not less than one-half of the total inspectional cost through the assessment of appropriate coffee inspection fees.	
Provided, further, that the ten poultry inspector positions shall be contingent on the federal government meeting not less than one-half of the cost.	
	(351)
LAND AND NATURAL RESOURCES, DEPARTMENT OF	5,251,367
Departmental Administration	
Net Appropriation	1,148,297(25)
Conveyances	

ACT 175

Net Appropriation	415,953(43)
Fish and Game	
Administration	58,688(5)
Enforcement	331,817(27)
Fisheries, Research and Management	326,408(16)
Wildlife, Research and Management	328,914(21)
Total Requirements	1,045,827(69)
Less Estimated:	
State Appropriated Receipts - Fish and Game	88,800
Federal Funds	258,600(2)
Net Appropriation	698,427(67)
Forestry	
Administration	125,520(9)
Forest Management	903,787(71)
Research	143,746(2)
Total Requirements	1,173,053(82)
Less Estimated Federal Funds	97,593(2)
Net Appropriation	1,075,460(80)
Land Management	
Net Appropriation	343,212(30)
State Parks	
Net Appropriation	778,306(89)
Water and Land Development	
Administration	
Net Appropriation	79,927(6)
Water Resources	
Total Requirements	837,755(5)
Less Estimated:	
Federal Funds:	
Hydrography	207,000
Water Resources Planning	100,000
Special Fund - Hydrography	12,900
Net Appropriation	517,855(5)
Flood Control	
Net Appropriation	51,283(3)
Soil and Water Conservation Districts	
Net Appropriation	6,680
Project Development	
Net Appropriation	51,297(3)
Supplementation to Irrigation	
Revolving Fund:	
Waimanalo Irrigation System	101,448(9)
Waimea Irrigation System	31,222(3)
Total Requirements	132,670(12)
Less Estimated	
Special Fund	48,000(12)
Net Appropriation	84,670
Molokai Irrigation System	
Total Requirements	41,011(3)
Less Estimated Molokai	
Irrigation System	
Special Fund	41,011(3)
Net Appropriation	---
Provided, that from the appropriation to the departmental administration, the sum of \$750,000 shall be deposited in the Hawaii fisheries new vessel construction loan fund.	

Provided, further, that the sum of \$100,000 in general fund appropriation authorized for the continuation of the water resources planning program shall be allotted only to the extent federal matching funds are made available for this purpose.

Provided, further, that the appropriation supplementing the irrigation system revolving fund shall be reduced to the extent the actual receipts from the Waimea and Waimanalo irrigation systems shall exceed the estimated sum of \$48,000 for the fiscal year 1970-71.

(85)

PLANNING AND ECONOMIC DEVELOPMENT, DEPARTMENT OF 4,236,205

Planning and Economic Development
Services

Net Appropriation 950,476(60)

Commission on Manpower and Full
Employment

Net Appropriation 190,280(8)

Foreign Trade and Pacific Affairs

Total Requirements 206,808(10)

Less Estimated Foreign

Trade Zone Revenues 145,000

Net Appropriation 61,808(10)

Hawaii Capital Loan

Total Requirements 574,000

Less Estimated

Revolving Fund 74,000

Net Appropriation 500,000

Hawaii International Services Agency

Net Appropriation 130,598

Hawaii Technical Services

Total Requirements 88,348

Less Estimated:

Federal Funds ---

Private Contributions ---

Net Appropriation 88,348

Industry and Product Promotion

Net Appropriation 305,000

Land Use Commission

Net Appropriation 88,017(7)

Small Business Extension Service

Net Appropriation 26,715

Tourism Advisory Committee

Net Appropriation 2,000

Tourism Development

Net Appropriation 1,892,963

Provided, that in the tourism promotion program, the department may contract for tourism promotion.

(22.25)

TRANSPORTATION, DEPARTMENT OF 426,701

General Administration

Total Requirements 1,277,438(65)

Less Estimated Special

Funds:

Airports 376,938

Harbors 244,501

Highways 462,724

Project Fund 127,864

ACT 175

Federal Funds	65,411
Net Appropriation	---
Airports	
Administration	13,327,847(31)
Operations and Maintenance	4,655,823(331.5)
Visitor Information Program	632,409(70.25)
Total Requirements	18,616,079(432.75)
Less Estimated Special Funds:	
Airports	18,552,838(432.75)
Harbors	63,241
Net Appropriation	---
Harbors	
Administration	3,830,972(33.5)
Operations and Maintenance	3,374,125(178)
Honolulu Fireboat Operation	350,227
Small Boat Harbors	426,701(22.25)
Total Requirements	7,982,025(233.75)
Less Estimated Special Fund - Harbors	7,555,324(211.5)
Net Appropriation	426,701(22.25)
Highways	
Administration	6,823,247(37)
Operations and Maintenance	6,150,985(384)
Total Requirements	12,974,232(421)
Less Estimated Special Fund - Highways	12,974,232(421)
Net Appropriation	---

HEALTH, PROTECTIVE AND SOCIAL SERVICES

	(138)
DEFENSE, DEPARTMENT OF	1,454,238
Departmental Administration	
Total Requirements	693,405(71)
Less Estimated Appropriated Receipts	35,250
Net Appropriation	658,155(71)
Hawaii Army National Guard	
Total Requirements	562,811(45)
Less Estimated Appropriated Receipts	36,000
Net Appropriation	526,811(45)
Hawaii Air National Guard	
Total Requirements	164,421(7)
Less Estimated Appropriated Receipts	70,400
Net Appropriation	94,021(7)
Civil Defense	
Total Requirements	334,444(15)
Less Estimated Appropriated Receipts	163,393
Net Appropriation	171,051(15)
Pacific War Memorial Commission	
Net Appropriation	4,200

Provided, that if the Hawaii army national guard and the Hawaii air national guard shall be called or ordered into the service of the United States, the foregoing appropriations or any part thereof remaining unexpended shall be available to the Hawaii state guard. If only a part of the Hawaii army national guard or the Hawaii air national guard should be called or ordered into the service of the United States, the adjutant general with the approval of the director of finance shall allocate the foregoing appropriation or any part thereof remaining unexpended between the Hawaii state guard and the Hawaii national guard.

ACT 175

HEALTH, DEPARTMENT OF

	(1,791.4)
General Administration	20,402,225
Departmental Administration	630,777(45)
Comprehensive Health Planning	112,230(2)
Health Education	174,539(13)
Research, Planning and Statistics	340,619(33)
Total Requirements	1,258,165(93)
Less Estimated Appropriated Receipts	150,687(9)
Net Appropriation	1,107,478(84)
District Health Offices	
Total Requirements	487,533(49)
Less Estimated Appropriated Receipts	7,814(1)
Net Appropriation	479,719(48)
Children's Health Services	
Administration	122,802(8)
Crippled Children	826,123(43)
Maternal and Child Health	359,517(20)
Children and Youth	883,417(39)
Maternity and Infant Care	659,902(32.5)
School Health Services	29,457(2)
Services for Children of Guam, American Samoa and Trust Territories	85,000(1.5)
Mental Retardation Special Project	248,252(13)
Learning Disability Clinic	121,702(6)
Total Requirements	3,336,172(165)
Less Estimated Appropriated Receipts	1,874,706(115.5)
Net Appropriation	1,461,466(49.5)
Communicable Disease	
Administration	121,076(9)
Epidemiology	183,848(6)
Tuberculosis Control	494,803(39)
Leprosy Program - Outpatient and Special Services	104,980(7.5)
Hale Mohalu Hospital	606,593(48)
Kalaupapa Settlement	972,138(64)
Kalaupapa Store	90,000
Total Requirements	2,573,438(173.5)
Less Estimated:	
Appropriated Receipts	1,350,002(14)
Special Funds	90,000
Net Appropriation	1,133,436(159.5)
Dental Health	
Total Requirements	564,838(57.2)
Less Estimated Appropriated Receipts	14,223(1.2)
Net Appropriation	550,615(56)
Environmental Health	
Administration	46,981(2)
Food and Drug	125,812(10)
Air Sanitation	85,133(7)
Occupational and Radiological Health	85,191(6)
Sanitation	675,325(55)
Sanitary Engineering	136,774(10)
Mosquito Control	462,249(48)
Rodent Control	378,941(50)
Total Requirements	1,996,406(188)
Less Estimated:	

ACT 175

Appropriated Receipts	73,334(7)
Special Funds	14,867(1)
Trust Fund	6,000
Net Appropriation	1,902,205(180)
Medical Health Services	
Administration	42,380(3)
Chronic Disease	92,972(5)
Emergency Health Mobilization	36,827(2)
Hospital and Medical Facilities and Medicare	206,698(16.5)
Laboratory Services	492,637(41)
Injury Control	124,591(8)
Nutrition	85,888(7)
Public Health Nursing	1,345,286(116)
Total Requirements	2,427,279(198.5)
Less Estimated Appropriated Receipts	566,706(47.5)
Net Appropriation	1,860,573(151.0)
Mental Health	
Administration	118,293(9.5)
Preventive and Clinical Services	2,426,766(139)
Hawaii State Hospital	
Administration	254,856(26)
Patient Care	3,873,954(378)
Plant Operations	652,801(57)
Food Services	618,444(51)
Total Requirements	7,945,114(660.5)
Less Estimated Appropriated Receipts	242,596(8.5)
Net Appropriation	7,702,518(652)
Waimano Training School and Hospital	
Administration	67,288(4.4)
Extramural Activities	142,112(1)
Hospital Improvement Program	
Intensive Care of Young, Retarded Children at Waimano	59,945
Intensive Program for Community Placement	91,682(5)
Medical and Hospital Services	889,752(95)
Social Services and Placement	228,752(18)
Training	235,737(22)
Institution Facilities	
Administration	167,352(11)
Cottage Life	1,278,082(166)
Food Service	571,579(42)
Maintenance and Production	606,359(47)
Total Requirements	4,338,640(411.4)
Less Estimated Appropriated Receipts	134,425
Net Appropriation	4,204,215(411.4)
Research Projects	
Total Requirements	292,998
Less Estimated Appropriated Receipts	292,998
Net Appropriation	---

Provided, that if a sum less than \$1,200,000 is provided by Congress for the leprosy program, then the difference between \$1,200,000 and the sum so provided is hereby appropriated, and provided, further, that if a sum greater than \$1,200,000 is so provided, then the amount of the net general appropriation shall be reduced to the extent that the actual realization shall exceed the estimated sum of \$1,200,000 for the fiscal year 1970-71.

Provided, further, that the appropriation for Hawaii state hospital is intended for an average daily inpatient population of 600.

Provided, further, that the appropriation for Waimano training school and hospital is intended for an average daily ward population of 787.

(1,391.75)

ACT 97 HEALTH FUNCTIONS

8,643,624

County/State Hospitals Administration Office

Net Appropriation

337,619(9)

Maluhia Hospital

Net Appropriation

1,652,374(173)

Hilo Hospital

Total Requirements

5,076,118(434.75)

Less Estimated Hospital Receipts

3,281,000

Net Appropriation

1,795,118(434.75)

Honokaa Hospital

Net Appropriation

443,424(39.5)

Kohala Hospital

Net Appropriation

291,602(30.5)

Kona Hospital

Net Appropriation

567,754(49.5)

Kau Hospital

Net Appropriation

164,471(31)

Kula Sanatorium and General Hospital

Total Requirements

2,030,235(187)

Less Estimated Hospital Receipts

840,000

Net Appropriation

1,190,235(187)

Maui Memorial Hospital

Total Requirements

3,092,438(243.5)

Less Estimated Hospital Receipts

2,350,000

Net Appropriation

742,438(243.5)

Hana Medical Center

Total Requirements

102,229(5)

Less Estimated Hospital Receipts

28,000

Net Appropriation

74,229(5)

Kauai Veterans Memorial Hospital

Total Requirements

885,789(65)

Less Estimated Hospital Receipts

589,000

Net Appropriation

296,789(65)

Samuel Mahelona Memorial Hospital

Total Requirements

1,260,422(124)

Less Estimated Hospital Receipts

172,851

Net Appropriation

1,087,571(124)

Provided, that the appropriation for hospitals operating under special funds is a supplement to the estimated receipts for the operation and maintenance of such hospitals for fiscal year 1970-1971.

Provided, further, that the appropriations for hospitals covered under Act 97, Session Laws of Hawaii 1965, are intended for the following average daily inpatient population: Maluhia (144); Hilo (316); Honokaa (25); Kohala (13.5); Kona (45); Kau (12); Kula (145); Maui memorial (106); Hana (2); Samuel Mahelona (100); and Kauai veterans memorial (37).

Provided, further, that all funds appropriated for ambulance services in Maui and Kauai, whether for purchase of ambulances, contractual services, or for personal services, shall not be used for any other purpose.

(560)

JUDICIARY, THE

7,694,709

Supreme Court

Supreme Court Proper

361,103(20)

Administrative Director

587,928(11)

ACT 175

State Law Library System	141,055(6)
Publication of Hawaii Reports	24,000
Bar Examination	2,500
District Court of Kalawao	250
Revisor of Statutes	116,033(5)
Total Requirements	1,232,869(42)
Less Estimated Special Funds	2,500
Net Appropriation	1,230,369(42)
Land Court - Tax Appeal Court	
Net Appropriation	46,205(3)
First Circuit Court	
First Circuit Court Proper	1,294,910(101)
Jury Trial Expenses	257,670
Adult Probation	284,964(28)
Net Appropriation	1,837,544(129)
Family Court	
Family Court Proper	1,272,854(97)
Juvenile Detention Home	320,562(33)
New Careers	43,387
Total Requirements	1,636,803(130)
Less Estimated Appropriated Receipts	11,455
Net Appropriation	1,625,348(130)
Second Circuit Court	
Second Circuit Court Proper	159,183(12)
Jury Trial Expenses	20,200
Family Court	188,877(17.5)
Net Appropriation	368,260(29.5)
Third Circuit Court	
Third Circuit Court Proper	230,609(17)
Jury Trial Expenses	17,540
Family Court	193,938(17)
Net Appropriation	442,087(34)
Fifth Circuit Court	
Fifth Circuit Court Proper	128,279(9)
Jury Trial Expenses	5,974
Family Court	83,057(5)
Net Appropriation	217,310(14)
District Courts	
District Courts of Honolulu	
Judicial Services	617,451(41)
Traffic Violations Bureau	691,511(78)
Rural District Courts	297,294(30)
District Courts of Maui	127,309(12.5)
District Courts of Hawaii	129,106(11)
District Courts of Kauai	64,915(6)
Net Appropriation	1,927,586(178.5)
Provided, that the appropriation for jury trial expenses shall not be used for any other purpose.	
Provided, further, that from the appropriation for the office of the administrative director, the judiciary shall make funds available to cover operating expenses of the judicial council.	
Provided, further, that from the appropriation for the family courts, the sum of \$194,195 is to be used only for the purpose of placing delinquent wards in foster homes, including child care institutions.	
Provided, further, that the appropriation for the juvenile detention home is intended for an average daily ward population of 53 children.	

Provided, further, that from the appropriation for the office of the administrative director of courts, the sum of \$110,000 or so much thereof as may be necessary is to be available for rental payments to the counties for space occupied by the district courts.

Provided, further, that from the appropriation for the office of the administrative director the sum of \$11,134 is to be available for the civil revision project, and provided, further, that personal services obtained for said project shall not be subject to chapters 76 and 77 and section 78-1, Hawaii Revised Statutes.

	(148.6)
LABOR AND INDUSTRIAL RELATIONS, DEPARTMENT OF	2,178,833
Administration	
Net Appropriation	320,898(25.9)
Computer Center No. 2	
Total Requirements	446,810(25)
Less Estimated:	
Appropriated Receipts	196,081(14.8)
Department of Taxation Requirements	170,111
Net Appropriation	80,618(10.2)
Apprenticeship	
Net Appropriation	81,675(7)
Labor Law Enforcement	
Net Appropriation	280,808(25)
Workmen's Compensation	
Net Appropriation	313,304(30)
Industrial Safety	
Net Appropriation	359,885(29)
Hawaii Employment Relations Board	
Net Appropriation	27,278(1.5)
Temporary Disability Insurance	
Net Appropriation	266,460(12)
Manpower Development and Training Act	
Net Appropriation	326,437(3)
Labor and Industrial Relations Appeals Board	
Net Appropriation	121,470(5)
Employment Security	
Total Requirements	4,104,679(332)
Less Estimated Appropriated Receipts	4,104,679(332)
Net Appropriation	---
Hawaii Job Corps Center	
Total Requirements	1,363,031(66)
Less Estimated Appropriated Receipts	1,363,031(66)
Net Appropriation	---
	(916.5)
SOCIAL SERVICES, DEPARTMENT OF	40,857,217
Departmental Administration	
Total Requirements	1,473,267(75)
Less Estimated Appropriated Receipts	440,633(2)
Net Appropriation	1,032,634(73)
Parole and Pardon of Felons	
Net Appropriation	228,094(19.5)
Public Housing	
Total Requirements	8,062,810(224)
Less Estimated Special Funds	7,339,961(220.5)
Net Appropriation	722,849(3.5)
Criminal Injuries Compensation Commission	
Net Appropriation	29,640(2.5)

ACT 175

Corrections	
Administration	
Net Appropriation	92,749(6)
Detention and Rehabilitation of Juvenile Offenders -	
Hawaii Youth Correctional Facility	
Net Appropriation	839,359(80)
Juvenile Parole	
Net Appropriation	112,572(8)
Custody and Rehabilitation of Felons - State Prison	
Total Requirements	2,006,872(160)
Less Estimated Special Funds	291,697(9)
Net Appropriation	1,715,175(151)
Kulani Honor Camp	
Net Appropriation	454,277(34)
Olinda Honor Camp	
Net Appropriation	254,845(19)
Community Centers (Conditional Release Center)	
Net Appropriation	211,080(12)
Public Welfare Services	
Administration	453,077(28)
Oahu Branch	2,897,658(288.5)
Hawaii Branch	464,872(45.5)
Maui Branch	266,927(25.5)
Kauai Branch	194,804(20.5)
Total Requirements	4,277,338(408)
Less Estimated Appropriated Receipts	1,811,826(10.5)
Net Appropriation	2,465,512(397.5)
Economic Assistance	
Payments to Indigents and Medically Indigent	
Aid to Aged, Blind and Disabled	20,479,818
Aid to Families with Dependent Children	26,938,852
Child Welfare Foster Care	1,076,956
General Assistance	5,960,354
Reasonable Cost Adjustments	750,000
Total Requirements	55,205,980
Less Estimated Appropriated Receipts	23,614,197
Net Appropriation	31,591,783
Rehabilitation Fund	
Net Appropriation	165,000
Work Incentive Program	
Net Appropriation	60,648
Payments for Disabled and Paraplegic Veterans	
Net Appropriation	21,000
Act 97 - Burial of Indigents	
Net Appropriation	101,000
Act 97 - Medical Payments for State and County Pensioners	
Net Appropriation	173,000
Vocational Rehabilitation and Services for the Blind	
Vocational Rehabilitation	2,271,445(82)
Services to the Blind	631,333(28.5)
Disability Determination	199,778(10)
Total Requirements	3,102,556(120.5)
Less Estimated:	
Appropriated Receipts	2,383,111(10)
Special Funds	133,445

Net Appropriation

586,000(110.5)

Provided, that for engineering services in the public housing program, the position ceiling to be financed out of project funds shall be 13.

Provided, further, that \$39,452 from the State prison program is available to transport and care for felons transferred to mainland penitentiaries.

Provided, further, that the appropriation for the detention and rehabilitation of juvenile offenders program is intended for an average daily ward population of 95 children.

Provided, further, that the appropriation for the custody and rehabilitation of felons - State prison program - is intended for an average daily inmate population of 265 felons.

Provided, further, that the appropriation for the custody and rehabilitation of felons - kulani honor camp program - is intended for an average daily inmate population of 60 felons.

Provided, further, that the appropriation for the custody and rehabilitation of felons - olinda honor camp program - is intended for an average daily inmate population of 40 felons.

Provided, further, that from the appropriation for the juvenile parole program, the sum of \$27,500 shall be used for purchasing foster home care and clothing for wards paroled from Hawaii youth correctional facility.

Provided, further, that the sum of \$59,304 in the social welfare services program shall be available for scholarships on a Statewide basis to any qualified applicant.

Provided, further, that the appropriation for payments for indigents is intended for average monthly caseloads of: aid to the aged, blind and disabled - 4,342 cases; aid to families with dependent children - 8,012 cases; child welfare foster care - 665 cases; and general assistance - 2,738 cases.

Provided, further, that the appropriation for medical payments for indigents and medical indigents is intended for the following: inpatient care - 10,907 patients for an average length of stay of 9.3 days per patient; extended facility care - 2,136 patients for an average length of stay of 218 days per patient; and out-patient care - 40,903 patients for an average of 9.0 visits per patient.

Provided, further, that the sum of \$15,000 appropriated for the purpose of providing legal services for welfare recipients can be used only if the department finds that legal aid cannot be provided by non-profit organizations in the community.

Provided, further, that the \$500,000 appropriated for the improvement of economic assistance payment procedures shall not be used for any other purpose.

FINANCE, COMMERCE AND STAFF DEPARTMENTS

(663.5)

ACCOUNTING AND GENERAL SERVICES, DEPARTMENT OF 16,284,175

Departmental Administration

Net Appropriation

403,227(24)

Insurance Management

Administration

825

Commercial Insurance Purchase of Auto Fleet Coverage

67,200

State Insurance Fund

Workmen's Compensation

675,000

Fire and Other Casualties

275,000

Total Requirements

1,018,025

Less Estimated Special and Federal Funds

235,240

Net Appropriation

782,785

Internal Post-Audit

Net Appropriation

241,024(14)

Division of Accounting

Uniform Accounting and Reporting

129,032(7)

Systems Accounting

81,545(5)

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Pre-Audit	176,593(16)
Net Appropriation	387,170(28)
Computer Center No. 1	
Total Requirements	507,370(29)
Less Estimated Reimbursements	52,000
Net Appropriation	455,370(29)
Division of Archives	
Records Service	133,601(13.75)
Records Management	68,410(7.25)
Captain Cook Memorial	500
Total Requirements	202,511(21)
Less Estimated Special Fund	500
Net Appropriation	202,011(21)
Division of Central Services	
Custodial Ground Maintenance, Security and	
Telephone Services	2,277,166(187.5)
Repairs and Alterations of Buildings	712,297(30)
Central Messenger Service	29,781(5)
Repairs and Maintenance of Schools	10,058,869(258)
Total Requirements	13,078,113(480.5)
Less Estimated Special Funds	116,910
Net Appropriation	12,961,203(480.5)
Automotive Management Division	
Parking	212,014(11)
Motor Pool	167,015(8.5)
Total Requirements	379,029(19.5)
Less Estimated Special Funds	379,029(19.5)
Net Appropriation	---
Land Surveying	
Net Appropriation	409,111(30)
Division of Public Works	
Administration	
Net Appropriation	276,891(22)
Division of Purchasing and Supply	
Central Purchasing	134,494(14)
Inventory Management	10,389(1)
Federal Surplus Property	78,941(10)
State Surplus Property	8,528
Total Requirements	232,352(25)
Less Estimated:	
Federal Surplus Property Revolving Fund	78,941(10)
State Surplus Property Revolving Fund	8,528
Net Appropriation	144,883(15)
Kamehameha Day Celebration Commission	
Celebration Expenses	
City and County of Honolulu	10,000
Hawaii County	5,000
Kauai County	2,500
Maui County, including Kalaupapa	3,000
Net Appropriation	20,500
Provided, that anything in this Act and the law, including section 37-41, Hawaii Revised Statutes, to the contrary notwithstanding, funds authorized by this Act for contractual services for repair and maintenance of schools shall not lapse until August 31, 1971.	
	(69)
ATTORNEY GENERAL, DEPARTMENT OF THE	1,267,746
Attorney General's Office	1,239,171(75)

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Litigations	150,000
Total Requirements	1,389,171(75)
Less Estimated Special Funds	217,161(14)
Net Appropriation	1,172,010(61)
Office of the Sheriff	
Net Appropriation	19,239(2)
Bureau of Crime Statistics	
Net Appropriation	23,956(2)
Bureau of Civil Identification	
Net Appropriation	52,541(4)

Provided, that from the appropriation for the attorney general's office proper, the sum of \$20,000 shall be used for the payment of tort claims arbitrated, compromised or settled for amounts not in excess of \$2,000.

BUDGET AND FINANCE, DEPARTMENT OF (192) 72,778,985

Departmental Administration	
Net Appropriation	315,448(8)
Budget Division	
Budget Services	566,077(24)
Bonus to Pensioners	3,443,128
Management Services	88,361(6)
Net Appropriation	4,097,566(30)
Commission on Children and Youth	
Net Appropriation	55,887(3)
Statewide Information System Division	
Net Appropriation	3,109,993(104)
Finance Division	
Cash and Debt Management	138,734(9)
Public Debt Service	112,504
Bonded Debt	37,421,017
Student Loan Fund	50,000
Veterans' Loans	1,751,131(2)
Total Requirements	39,473,386(11)
Less Estimated Special Funds	1,405,847(2)
Net Appropriation	38,067,539(9)
Employees' Retirement System	
Administration	383,444(26)
Contributions	20,805,309
Pensions	70,761
Total Requirements	21,259,514(26)
Less Estimated Counties' Pro-Rata Share	92,755
Net Appropriation	21,166,759(26)
Employees' Group Medical and Hospital Care:	
Administration	113,512(9)
Contributions	5,624,297
Net Appropriation	5,737,809(9)
Commission on Aging	
Total Requirements	488,013(3)
Less Estimated Federal Fund - Older Americans Act	260,029
Net Appropriation	227,984(3)

Provided, that the governor may transfer funds and personnel from existing agencies and departments of the State government for the purpose of establishing an integrated Statewide data processing system of the State including all related activities.

Provided, further, that the board of trustees of the employees' group medical and hospital care program may use so much of the contributions appropriation as

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necessary to advance to employee-beneficiaries their monthly contributions to the fund.

Provided, further, that the \$45,769 granted to the commission on aging to match federal funds for the foster grandparents program shall not be used for any other purpose.

Provided, further, that from the appropriation to the departmental administration the sum of \$200,000 shall be used to defray part of the operating expenses of the Bernice P. Bishop museum.

EXECUTIVE

	(53)
	2,928,929
Governor's Office	
Net Appropriation	809,266(25)
Washington Place	
Net Appropriation	106,318(8)
Governor's Contingent Fund	
Net Appropriation	100,000
Progressive Neighborhoods Program	
Total Requirements	807,800(2)
Less Estimated Specific Appropriations	123,600
Net Appropriation	684,200(2)
Hawaii Office of Economic Opportunity	
Total Requirements	483,758(7)
Less Estimated Federal Funds	111,228(7)
Net Appropriation	372,530
Institute for Technical Interchange	
Net Appropriation	3,500
Western Interstate Commission for Higher Education	
Net Appropriation	148,250
State Foundation on Culture and the Arts	
Total Requirements	224,558(4)
Less Estimated Federal Funds	50,000
Net Appropriation	174,558(4)
Governor's Committee on Employment of the Handicapped	
Net Appropriation	26,000
State Law Enforcement and Juvenile Delinquency Planning Agency	
Total Requirements	1,438,001(11)
Less Estimated:	
Federal Funds	1,149,824(11)
County In-Kind Matching	- - -
Net Appropriation	288,177
Office of Consumer Protection	
Net Appropriation	216,130(14)
Provided, that the appropriation for the governor's office and Washington place shall be expended at the discretion of the governor.	
Provided, further, that expenditures from the governor's contingent fund may be made with the approval of the governor for urgent needs; a detailed accounting of all expenditures shall be submitted to the legislature 20 days prior to the next regular session of the legislature.	
Provided, further, that in the event expenditures from the governor's contingent fund exceed \$100,000, the governor may submit a deficiency appropriation request.	

LIEUTENANT GOVERNOR, OFFICE OF THE

Lieutenant Governor's Office

Net Appropriation

(13)

716,369

182,838(10)

Elections Administration

Net Appropriation 533,531(3)

Provided, that the appropriation for the lieutenant governor's office shall be expended at the discretion of the lieutenant governor.

(62)

PERSONNEL SERVICES, DEPARTMENT OF 810,249

Personnel Services

Total Requirements 950,190(66)

Less Estimated Appropriated Receipts 167,936(4)

Net Appropriation 782,254(62)

Civil Service Commission

Net Appropriation 23,555

Appeals Board

Net Appropriation 4,440

Provided, that the appropriation of \$28,000 for increased advertising shall not be used for any other purpose.

(136)

REGULATORY AGENCIES, DEPARTMENT OF 1,831,717

General Administration

Net Appropriation 191,991(17)

Bank Examination

Net Appropriation 288,699(20)

Business Registration

Net Appropriation 92,573(9)

Fire Marshal

Net Appropriation 46,612(3)

Insurance Division

Net Appropriation 149,551(13)

Regulatory Boards and Commissions

Net Appropriation 33,655

Professional and Vocational Licensing

Net Appropriation 515,514(40)

Public Utilities Commission

Net Appropriation 513,122(34)

(380)

TAXATION, DEPARTMENT OF 4,357,883

Headquarters Administration

Net Appropriation 673,096(49)

Property Technical

Net Appropriation 294,542(28)

Systems and Procedures

Net Appropriation 285,791(13)

Field Administration

Net Appropriation 239,513(15)

Property Assessment

Net Appropriation 740,631(72)

Income Assessment and Audit

Net Appropriation 1,516,916(140)

Collections

Net Appropriation 598,934(63)

Boards of Review

Net Appropriation 8,460

SUBSIDIES AND OTHER APPROPRIATIONS 371,250

Private Hospital Subsidies

Net Appropriation 340,000

Provided, that the subsidies for private hospitals shall be disbursed by the department of health.

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Strong-Carter Dental Clinic	
Net Appropriation	5,000
Cemeteries	
Island of Hawaii	7,500
Island of Kauai	7,500
Island of Maui	7,500
Island of Molokai	3,750
Net Appropriation	26,250

SECTION 2. The sum of \$399,395(28) or so much thereof as shall be sufficient to accomplish the purposes, is hereby approved for the Hawaiian homes administration account pursuant to the provisions of Section 213(f), Hawaiian Homes Commission Act of 1920, as amended, from the proceeds of leasing income from available lands as defined in Section 204 of said Act.

In addition to the sum approved in the previous paragraph, there is hereby appropriated out of the general revenues of the State the sum of \$125,000 or so much thereof as may be necessary, for deposit into a special revolving account within the Hawaiian home-loan fund established pursuant to the provisions of Act 4, Session Laws of Hawaii 1965, for educational purposes only.

In addition to the sums approved in the previous paragraphs, there is hereby appropriated out of the general revenues of the State the sum of \$250,000, or so much thereof as may be necessary, for deposit into a special revolving account within the Hawaiian homes farm loan fund.

SECTION 3. Anuenue income from lands and facilities dedicated to the university of Hawaii shall be expended for the operating expenses of the university. Such income, excluding amounts required to reimburse the general fund for capital improvements, shall be deposited into the general fund of the State and shall be considered to be a reimbursement to the general fund for moneys appropriated for the operation of the university of Hawaii under Section 1 of this Act. Anuenue income from other non-university lands and facilities shall be deposited into the harbor special fund.

SECTION 4. The sum of \$214,000 of east-west center direct support funds, or so much as may be made available by the east-west center for direct support purposes, is hereby authorized to be expended by the university of Hawaii. This amount shall be deposited into the general fund of the State and shall be considered to be a reimbursement to the general fund for moneys appropriated for the operation of the university of Hawaii in Section 1 of this Act. In the event the actual amount of east-west center direct support funds for the fiscal year 1970-1971 should fall under or exceed the amount of \$214,000 estimated, the appropriations made to the university of Hawaii in Section 1 of this Act shall be decreased or increased by the amount the actual direct support funds fall under or exceed the amount of \$214,000.

SECTION 5. The director of finance may advance funds to the university of Hawaii when required to meet reimbursable costs incurred in connection with federally financed research and training projects.

SECTION 6. The governor is hereby authorized to create not more than 40 permanent or temporary positions to be allocated by him to any of the executive departments as he shall deem proper, provided, that this section shall not apply to the department of education and the university of Hawaii.

SECTION 7. There is hereby appropriated out of the public trust fund created by Section 5(f) of the Admission Act (Public Law 86-3, 86th Congress), the total amount of the proceeds from the sale or other disposition of any lands, and the income therefrom, granted to the State by Section 5(b) or later conveyed to the State by Section 5(e), with the exception of such proceeds covered under Section 171-19, Hawaii Revised Statutes, as amended, to be disposed of by the board of land and natural resources, in order to reimburse the general fund for the appropriation made in Section 1 of this Act to the department of education for the support of public schools, to the extent such proceeds are realized for the period beginning July 1, 1970 to June 30, 1971. The above proceeds shall be exclusive of the amount disposed of under the provisions of the Hawaiian Homes Commission Act of 1920, as amended.

SECTION 8. For the fiscal year 1970-1971, in the absence of legislative authorization for special funds in Section 1 of this Act as provided under Section 2 of Act 320, Session Laws of Hawaii 1957, departments and establishments shall be authorized to expend so much as is deemed necessary to carry out the purpose of each special fund, as approved by the board of education for the department of education and in all other cases by the governor, or the director of finance if so delegated by the governor, provided, that such expenditures shall not exceed the moneys available in such special funds.

The university of Hawaii is hereby authorized to expend from their special funds any receipts in excess of the amount specified in Section 1, if such expenditures are approved by the governor or if so designated, by the director of finance.

SECTION 9. The governor is responsible for the effective coordination of the various federal programs and for the acquisition of available federal grants which will be of benefit to the State. In carrying out this function, maximum use should be made of congressional delegations and their staffs.

A sum of \$20,000 appropriated in Section 1 for the commission on marine science, engineering and resources may be used to supply supplemental staff assistance to Hawaii's member on the commission on marine science, engineering and resources with the understanding that all or a substantial part of the amount will be matched by private funds. The basic purpose of such staff will be to identify and develop oceanographic research and development opportunities for the State, including programs or grants available to the university of Hawaii and other public or private agencies eligible under Public Law 89-688 and related legislation. Provided, further, that such amount and balance of said appropriation in Section 1 not needed for the commission on marine science, engineering and resources may be expended by the governor for the coordination of oceanographic research, recreation and development.

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SECTION 10. Whenever the functions of a previously existing department, office or other agency are transferred to any other department by legislation enacted during any session of the legislature which affects the appropriations made by this Act, the governor, or the department of budget and finance, if so delegated by the governor, shall transfer the necessary funds to support such function from the department to which the appropriation was made to the department to which the function has been transferred.

SECTION 11. The designations referring to divisions, bureaus, offices and other subdivisions of department are used in this Act for convenience only and such use is not intended to create or confirm the existence of such departmental subdivision.

SECTION 12. In allotting funds to the department of health, department of social services, tubercular hospitals and other departments, commissions and agencies having appropriations which are based on population and workload data as specified in this Act, only so much as is necessary to provide the level of services intended by the legislature shall be allotted by the department of budget and finance. For this purpose, the departments and agencies concerned shall reduce expenditures below appropriations as prescribed by the department of budget and finance in the event actual population and workload trend is less than the specified figure. In the event that the trend is higher than the specified figure, or the reasonable average daily cost of medical care for the needy and medically needy exceeds the anticipated average sum per patient day upon which the appropriation therefor was based, the department is authorized to submit a deficiency appropriation request to the extent and on such basis as may be prescribed by the director of the department of budget and finance. In the event that the reasonable average daily cost of medical care for the needy and medically needy exceeds the anticipated average sum per patient day, or the caseload trend for money or medical assistance payments is higher than the specified figure, the governor is authorized to utilize such savings as may be available from appropriated funds of any department for the purpose of meeting the deficit in the economic assistance program of the department of social services.

SECTION 13. Except as otherwise provided, transfer of funds between program appropriations within a department may be made by the head of the department upon his certification, and approval by the director of the department of budget and finance, that appropriation balances are or will be available for such transfers after the program objectives intended by the legislature have been accomplished and that such transfers are necessary to accomplish program objectives authorized by the legislature.

SECTION 14. Where the operation of a department of a program is financed by general appropriation as well as by non-general appropriation funds, the general appropriation portion shall be decreased to the extent that the receipt of non-general appropriation funds approved in this Act are exceeded, provided, that such decrease shall not jeopardize the receipt of such increased non-general appropriation funds; provided, further, that this section

shall not apply to any fund if such excess receipts are to be expended for a purpose or purposes approved by the governor or the director of the department of budget and finance if such authority is so delegated by the governor.

SECTION 15. The maximum number of positions authorized for the State government during the fiscal year 1970-1971 is the sum of the positions enclosed in parenthesis after the appropriation or approved amounts for State programs, provided, that this section shall not apply to any position required to perform a function or service of a temporary or non-recurring character.

SECTION 16. Any law to the contrary notwithstanding, any State or county official, body or agency, or any private person, association, partnership or corporation performing any repair or construction project financed in part or in whole by State funds appropriated by this Act shall cooperate to the fullest extent possible with the department of labor and industrial relations in the hiring and utilization of unemployed persons; provided, that such persons may be employed on a temporary basis which shall be exempt from Chapters 76, 77, and 88 of the Hawaii Revised Statutes, as amended; and provided, further, that such persons shall meet the minimum requirements necessary for such position.

SECTION 17. The department of social services, department of health, department of education, and other departments within the State and county governments shall undertake to cooperate with each other in order that utilization of prison labor, welfare recipient workers and non-teaching employees of the department of education can be utilized whenever and wherever it is reasonably practicable to carry out the objectives and programs of the departments concerned.

SECTION 18. Funds appropriated in this Act shall not be used by a department for the purpose of conducting a study or survey of its management practices or for any other purpose, except as authorized by this Act or as authorized by the governor or the legislature by resolution or board of education.

SECTION 19. The governor may expend, in addition to the amount appropriated in Section 1 for the Hawaii office of economic opportunity, a sum not to exceed \$250,000; provided that such amount and any balance of the said appropriation in Section 1 not needed for economic opportunity act matching purpose may be used to make necessary advances subject to federal reimbursements to implement authorized projects, or to provide either matching or implementation money for economic opportunity act projects or other related projects in areas such as health, education, housing, social welfare or employment; provided, further, that the director of finance may advance funds when required to meet reimbursable costs incurred in connection with federally financed programs of the Hawaii office of economic opportunity.

SECTION 20. With the approval of the director of budget and finance, the department of health may transfer funds appropriated to the department of health for the care and treatment of patients to the department of social services whenever the department of social services can utilize such funds to match

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federal funds which may be available to help finance the cost of hospital or skilled nursing home care of indigents or medical indigents.

The department of social services is authorized to enter into agreements with the department of health to furnish hospital and/or skilled nursing home care and to pay the department of health for such care. With the approval of the director of budget and finance, the department of health may deposit part of such receipts into the appropriations from which transfers were made.

SECTION 21. Any law to the contrary notwithstanding, the director of transportation, or any State or county official, body or agency, or any private persons, association, partnership or corporation performing any repair or construction project, including the State highway system and the maintenance thereof, financed in part or in whole by State funds appropriated by this Act, shall cooperate to the fullest extent possible with the department of labor and industrial relations in the hiring and utilization of the physically handicapped, college and high school students, age 16 and above, the unemployed, and persons whose earning capacities are or may be reduced by old age; provided, that when such person is employed by any governmental official, body, or agency, he may be employed on a temporary basis and his employment shall be exempt from Chapters 76, 77 and 88 of the Hawaii Revised Statutes, as amended.

SECTION 22. All subsidies made to non-public organizations in this Act shall, as a condition of receiving such money, (1) comply with the allotment system as provided in Chapter 37, Hawaii Revised Statutes, (2) allow the expending or other related agency full access to their records, files, reports, and other related areas in order to assist and improve their management and fiscal practices, and (3) submit all future budget requests on a form prescribed by the director of finance.

SECTION 23. Any new position authorized by this Act that is not filled by a permanent or probationary appointment as of April 30, 1971, shall be abolished.

Any position which was authorized prior to July 1, 1970 and was vacant as of January 1, 1970, shall be abolished if it is not filled by a permanent or probationary appointment prior to December 31, 1970.

Funds appropriated for positions abolished pursuant to this section may be expended by the governor to supplement other funds appropriated by this Act.

The director of personnel services shall not approve any personnel action which circumvents the purpose of this section.

This section shall not apply to positions exempted from chapters 76 and 77, Hawaii Revised Statutes.

SECTION 24. If any section, subsection, paragraph, sentence, clause, phrase or appropriation contained in this Act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Act.

SECTION 25. This Act shall take effect from and after July 1, 1970.

(Approved June 30, 1970.)

A Bill for an Act Relating to Governmental Provisions Common to All Counties and Amending Chapter 46, Hawaii Revised Statutes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 46, Hawaii Revised Statutes, is hereby amended by adding a new section thereto, to be appropriately numbered and to read as follows:

"Section 46- . Disposition of real property. Notwithstanding any other law to the contrary, each county, subject to the approval of the council, may grant, sell or otherwise dispose of any easement, including easements over, under, through and across land bordering the ocean, at public auction; provided, that any easement for any governmental or public utility purpose may be granted, sold or otherwise disposed of by negotiation without public auction."

SECTION 2. This Act shall take effect upon its approval.
(Approved June 30, 1970.)

A Bill for an Act Relating to the Public Employees Health Fund.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The second paragraph of section 87-4, Hawaii Revised Statutes, is amended to read as follows:

"The State shall make a monthly contribution of \$1.56 for each child who has not attained the age of nineteen of all employee-beneficiaries who are enrolled for dental benefits. The contributions shall be used towards the payment of costs of dental benefits of a health benefits plan. Notwithstanding any provision to the contrary, no part of the fund shall be used to finance the contributions except a rate credit or reimbursement or earnings or interest therefrom received by the fund, or general revenues appropriated for that purpose."

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$78,355, or so much thereof as may be necessary, for the purpose of this Act.

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect on July 1, 1970.
(Approved June 30, 1970.)

A Bill for an Act Amending Title 6, Subtitle 1 of the Hawaii Revised Statutes Relating to Provisions Common to All Counties.

* Edited accordingly

ACT 179

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Title 6, subtitle 1 of the Hawaii Revised Statutes is hereby amended by adding a new section to be appropriately numbered by the Revisor of Statutes:

“Sec. . Firemen, Counsel for. Whenever any fireman is prosecuted for any crime for acts done in the performance of his duty as a fireman, or any traffic violation while in the course of operating any firefighting apparatus or other authorized emergency vehicle of the fire department, or sued in any civil cause for acts done in the performance of his duty as a fireman, he shall be represented and defended,

(1) In the criminal and traffic violations proceedings by an attorney to be employed and paid by the council, and

(2) In the civil case by the corporation counsel or county attorney, as the case may be.”

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 30, 1970.)

ACT 179

H. B. NO. 1979-70

A Bill for an Act Making an Appropriation for the Development of a Master Plan for Hawaii State Correctional Facilities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to amend a previous authorization for a new State prison. The previous authorization called for plans for “a modern multiple security prison with an immediate prison capacity of 640 and an ultimate prisoner capacity of 1,000 men and women housed in individual cells....” Such a large facility is not contemplated at this time. Unencumbered funds are therefore available to develop new plans.

SECTION 2. Notwithstanding the express provisions of the authorizations to the new State prison contained in Item L-(1) of Section 1, Act 195, Session Laws of Hawaii 1965, or of any laws passed this session, the State law enforcement and juvenile delinquency planning agency may expend \$100,000 of the funds appropriated thereby to develop a master plan for Hawaii State correctional facilities, including organizational and manpower requirements, in accordance with the recommendations for future correctional program by the National Council on Crime and Delinquency. The State law enforcement and juvenile delinquency planning agency shall consult with agencies and organizations within the State concerned with correction in the development of the plan.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 30, 1970.)

A Bill for an Act Relating to Taxation.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. Section 235-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There shall be excluded from gross income, adjusted gross income, and taxable income:

- (1) Income not subject to taxation by the State under the Constitution and laws of the United States;
- (2) Rights, benefits, and other income exempted from taxation by section 88-82, having to do with the state retirement system, and the rights, benefits, and other income, comparable to the rights, benefits, and other income exempted by section 88-82, under any other public retirement system;
- (3) Any compensation received in the form of a pension for past services, or paid as a weekly benefit for unemployment up to but not in excess of the amount provided by the employment security law (it being the intention of this provision to exempt that amount whether paid from a fund or account in the federal or state treasury or paid by an employer or by a trust or other means provided by an employer);
- (4) Compensation paid to a patient affected with leprosy employed by the State or the United States in any hospital, settlement, or place for the treatment of leprosy;
- (5) Except as otherwise expressly provided, payments made by the United States or this State, under an act of Congress or a law of this State, which by express provision or administrative regulation or interpretation are exempt from both the normal and surtaxes of the United States, even though not so exempted by the Internal Revenue Code itself;
- (6) All proceeds received by organizations enumerated under section 237-23(6) to (9), resulting from the sale of brooms which are manufactured by blind persons working at the adult blind broom shop;
- (7) Any income expressly exempted or excluded from the measure of the tax imposed by this chapter by any other law of the State, it being the intent of this chapter not to repeal or supersede any such express exemption or exclusion;
- (8) The first \$500 received by each member of the reserve components of the army, navy, air force, marine corps, coast guard of the United

States of America and the Hawaii national guard as compensation for performance of duty as such.”

SECTION 2. Section 235-54, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In computing the taxable income of any individual, there shall be deducted, in lieu of the personal exemptions allowed by the Internal Revenue Code, personal exemptions computed as follows: Ascertain the number of exemptions which the individual can lawfully claim under the Internal Revenue Code and multiply that number by the amount as shown below for the corresponding taxable years as follows:

- (1) Effective with respect to taxable years beginning after December 31, 1969 and before January 1, 1971, the amount shall be \$625;
- (2) Effective with respect to taxable years beginning after December 31, 1970 and before January 1, 1972, the amount shall be \$650;
- (3) Effective with respect to taxable years beginning after December 31, 1971 and before January 1, 1973, the amount shall be \$700;
- (4) Effective with respect to taxable years beginning after December 31, 1972, the amount shall be \$750.

A nonresident shall be entitled to the same personal exemptions as a resident, without proration of the personal exemptions on account of income from sources outside the State.”

SECTION 3. Notwithstanding any provision to the contrary, in ascertaining the amount of net income taxes to be withheld for the period from January 1, 1970 through December 31, 1970, both days inclusive, every employer shall deduct and withhold from the wages of employees an amount of tax computed under section 235-61, on the basis of \$600 for each exemption for the period from January 1, 1970 through June 30, 1970, both days inclusive, and \$650 for each exemption for the period from July 1, 1970 through December 31, 1970, both days inclusive.

SECTION 4. Section 235-57, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) For each person, constituting a personal exemption allowed a taxpayer under the Internal Revenue Code and section 235-54, who was duly registered and in attendance as a student in an institution of higher education for not less than one-half of the course work of a full-time student at such institution and for not less than three months of the taxable year for which an individual net income tax return was filed, or who was enrolled and in attendance as a student at school in grades kindergarten through twelve for not less than three months of the taxable year for which an individual net income tax return was filed, there shall be allowed to such resident taxpayer claiming such exemption, tax credits in the amount indicated for each adjusted gross income tax bracket as shown in the table below; provided, that no person who is claimed, or is eligible to be claimed as a dependent, for federal or Hawaii state

individual net income tax purposes by another shall be allowed to claim the tax credit as provided in this section.

Adjusted Gross Income Brackets	Tax Credits Per Exemption Attending:	
	K-12	An Institution of Higher Education
Under \$3,000	\$20	\$50
\$3,000 to \$3,999	15	30
4,000 to 4,999	10	20
5,000 to 5,999	5	10
6,000 to 6,999	2	5"

SECTION 5. Section 235-56, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 235-56. Tax credits against individual net income taxes. (a) Tax credit for resident taxpayer. Each resident taxpayer who files an individual net income tax return for a taxable year and who is not claimed or is not otherwise eligible to be claimed as a dependent by another tax payer for federal or Hawaii state individual net income tax purposes may claim tax credits against his individual net income tax liability or as otherwise provided below for the taxable year for which the individual net income tax return is being filed; provided that a husband and wife filing separate returns for a taxable year for which a joint return could have been made by them shall claim only the tax credit to which they would have been entitled had a joint return been filed; and provided that a resident individual who has no income or no income taxable under this chapter and who is not claimed or is not otherwise eligible to be claimed as a dependent by a taxpayer for federal or Hawaii state individual net income tax purposes may also claim tax credits as set forth in this section.

(b) Modified adjusted gross income. Each resident taxpayer who claims tax credits as set forth in this section shall declare in addition to his income taxable under this chapter, the following income presently exempt from income taxation: social security benefits, unemployment compensation benefits, workmen's compensation benefits, interest on tax-free securities, public assistance payments, pensions, and annuities, cost of living allowances paid to federal employees, and proceeds from life insurance. The modified gross income of a resident taxpayer for the purposes of this section shall be the sum of his adjusted gross income for income tax purposes, if any, and the income exempt from income taxation, if any, declared pursuant to this subsection.

(c) Tax credit schedule. Each taxpayer may claim tax credits in the amount indicated for each modified adjusted gross income bracket as shown in the schedule below.

Modified Adjusted Gross Income Brackets	Tax Credits Per Qualified Exemption
\$ 0 - \$ 999	\$21
1,000 - 1,999	20
2,000 - 2,999	18
3,000 - 3,999	17

4,000 - 4,999	13
5,000 - 5,999	9
6,000 - 6,999	5
7,000 - 7,999	3
8,000 - 9,999	1

(d) Qualified exemption defined. For the purposes of this section, a qualified exemption is defined to include those exemptions permitted under this chapter; provided that the person for whom exemption is claimed has physically resided in the State for more than nine months during the taxable year; and provided further that multiple exemptions shall not be granted because of advanced age or deficiencies in vision.

(e) Tax credits to be deducted from income tax liability, if any; refunds. The tax credits by a resident taxpayer pursuant to this section shall be deductible from the resident taxpayer's individual net income tax liability, if any, for the tax year in which they are properly claimed. In the event the tax credits claimed by a resident taxpayer, and allowed, exceed the amount of income tax payment due from the resident taxpayer, the excess of credits over payments due shall be refunded to the resident taxpayer, provided that tax credits properly claimed by a resident individual who has no income tax liability, and allowed, shall be paid to the resident individual; and further provided that no refunds or payment on account of the tax credits allowed by this section shall be made for amounts less than \$1.

(f) Forms and rules and regulations. The director of taxation shall prepare and prescribe the appropriate form or forms to be used by taxpayers in filing claims for tax credits hereunder. The form shall be made an integral part of the individual net income tax return. He shall also be empowered to promulgate such rules and regulations as may be necessary to effectuate the purposes of this section pursuant to chapter 91.

(g) Assessments and refunds. All of the provisions relating to assessments and refunds under this chapter and under section 231-23(d) shall be made applicable hereto and shall apply with equal force to the tax credits hereunder.

(h) Time for filing. Claims for tax credits under this section, including any amended claims thereof, must be filed on or before the end of the twelfth month following the close of the taxable year for which the credits may be claimed. Failure to comply with the foregoing provisions shall constitute and be deemed a waiver of the right to claim or recover the credit hereunder.

(i) Tax credits for drug and medical expenses. In addition to the credits provided by this section, a resident taxpayer or resident individual as defined in subsection (a) may claim tax credits as provided below on account of drug or medical expenses paid during the tax year. For purposes of this subsection, drug and medical expenses mean all expenses allowable in computing the drug and medical deduction for State income tax purposes, or which would have been allowable except for the fact that the expense was compensated by hospital, health, or accident insurance, or except for the fact that an itemized tax return was not filed; provided the transaction causing the expense was subject to the tax imposed by chapters 237 or 238. An itemized list of the expenses shall accompany the claim. All provisions of this section shall be applicable to claims for these tax credits except subsection (c). Each taxpayer may claim tax

credits in the amount indicated for each modified adjusted gross income bracket as shown in the schedule below.

Modified Adjusted Gross

Income Brackets

Under \$5,000

\$5,000 to \$7,999

8,000 to 10,999

11,000 to 13,999

Tax Credits

4% of drug and medical expenses

3% of drug and medical expenses

2% of drug and medical expenses

1% of drug and medical expenses.”

SECTION 6. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**Sec. 235- Tax credits to low-income household renters.** (a) For the purposes of this section:

“Adjusted gross income” is defined in the manner set forth in Section 235-1.

“Rent” means the amount actually paid in cash in any taxable year for the occupancy of a dwelling place which is used by him or his immediate family as the principal residence in this State;

The rent shall be limited to the amount paid for the occupancy of the dwelling place only, and it shall be exclusive of charges for utilities, parking stalls, storage of goods, yard services, furniture, furnishings and the like. The rent shall be exclusive of any rental claimed as a deduction from gross income and/or adjusted gross income for income tax purposes, any ground rental paid for use of land only, and any rent allowance or subsidies received.

(b) Each resident taxpayer who occupies real property as his residence for which he has paid rent and which is not partially or wholly exempted from the real property tax under Section 246-26, and who files an individual net income tax return for a taxable year may claim tax credits against his Hawaii state individual net income tax; provided that the claimant was a resident of Hawaii and he or his immediate family shall have occupied the residence for which he has paid rent during the taxable year for which he files for credit under this section.

(c) Each claimant may claim tax credits, expressed as a percentage of rent paid during the taxable year based on the following schedule.

Income Brackets

Adjusted Gross Income

Under \$10,000

\$10,000 but less than \$12,500

\$12,500 but less than \$15,000

Tax Credits

Per Cent of Rent

2.0% of rent

1.1/2% of rent

1% of rent

(d) If a rental unit is occupied by two or more individuals, and more than one individual is able to qualify as a claimant, the claim for credit shall be based upon a percentage of the individual's share of the rent paid.

(e) The tax credits claimed by a taxpayer pursuant to this section shall be deductible from the taxpayer's individual net income tax liability, if any, for the tax year in which such credits are properly claimed, provided that a husband and wife filing separate returns for a taxable year for which a joint return could have been made by them shall claim only the tax credits to which they would have been entitled had a joint return been filed. In the event the tax credits claimed by a taxpayer, and allowed, exceed the amount of the income tax payments due from the taxpayer, the excess of credits over payments due shall be refunded to the taxpayer; provided that tax credits properly claimed by an individual who has no income tax liability, and allowed, shall be paid to the individual; and provided further that no refunds or payments on account

of the tax credits allowed by this section shall be made for amounts less than \$1.

(f) The director of taxation shall prepare and prescribe the appropriate form or forms to be used by taxpayers in filing claims for tax credits hereunder. He may also require that the taxpayer furnish proof in order that he may ascertain the validity of the claim for tax credits made pursuant to this section and promulgate any rules and regulations as he may deem necessary to effectuate the purposes of this section pursuant to chapter 91.

(g) All of the provisions relating to assessments and refunds under this chapter and under section 231-23(d) (1) shall be made applicable hereto and shall apply with equal force to the tax credits hereunder.

(h) Claims for tax credits under this section, including any amended claims thereof, must be filed on or before the end of the twelfth month following the taxable year for which the credit may be claimed."

SECTION 7. Chapter 235, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 235- . Tax credits to discourage sale of dangerous items. Any taxpayer who sells glue, paints, and solvents which, when abused by inhalation, can cause serious human harm shall be entitled to a tax credit equal to four per cent of the gross sales price of each transaction for which he can produce a certificate from the department of health stating that certain additives or substances have been added to the glue, paint, or other solvent which will substantially deter its abuse by inhalation."

SECTION 8. Sections 1 and 7, upon their approval, shall be effective for taxable years beginning on or after January 1, 1971. Sections 2, 3, 4, 5 and 6, upon their approval, shall be effective for taxable years beginning on or after January 1, 1970.

PART II

SECTION 9. Section 237-4, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 237-4. 'Wholesaler', 'jobber', defined. 'Wholesaler' or 'jobber' applies only to a person making sales at wholesale. Only the following are sales at wholesale:

- (1) Sales to a licensed retail merchant, jobber, or other licensed seller for purposes of resale;
- (2) Sales to a licensed manufacturer of material or commodities which are to be incorporated by the manufacturer into a finished or saleable product (including the container or package in which the product is contained) during the course of its preservation, manufacture, or processing, including preparation for market, and which will remain in such finished or saleable product in such form as to be perceptible to the senses, which finished or saleable product is to be sold and not otherwise used by the manufacturer; or

- (3) Sales to a licensed contractor, of material or commodities which are to be incorporated by the contractor into the finished work or project required by the contract and which will remain in such finished work or project in such form as to be perceptible to the senses; or
- (4) Sales to a licensed producer, or to a cooperative association described in section 237-23(10) for sale to such producer, or to a licensed person operating a feed lot, of poultry or animal feed, hatching eggs, semen, replacement stock, breeding services for the purpose of raising or producing animal or poultry products for disposition as described in section 237-5 or to be incorporated in a manufactured product as described in paragraph (2) of this section or for the purpose of breeding, hatching, milking, or egg laying other than for the customer's own consumption of the meat, poultry, eggs, or milk so produced; provided that in the case of a feed lot operator, only the segregated cost of the feed furnished by him as part of his service to a licensed producer of poultry or animals to be butchered or to a cooperative association described in section 237-23(10) of such licensed producers shall be deemed to be a sale at wholesale; and provided further that any amount derived from the furnishing of feed lot services, other than the segregated cost of feed, shall be deemed taxable at the service business rate. This paragraph (4) shall not apply to the sale of feed for poultry or animals to be used for hauling, transportation, or sports purposes;
- (5) Sales to a licensed producer, or to a cooperative association described in section 237-23(10) for sale to the producer, of seed for producing agricultural products, or bait for catching fish (including the catching of bait for catching fish), which agricultural products or fish are to be disposed of as described in section 237-5 or to be incorporated in a manufactured product as described in paragraph (2) of this section; or
- (6) Sales to a licensed producer, or to a cooperative association described in section 237-23(10) for sale to such producer; of cartons and such other containers, wrappers, and sacks, and binders to be used for packaging eggs, vegetables, fruits, and other agricultural products; of seedlings and cuttings for producing nursery plants; or of chick containers; which cartons and such other containers, wrappers, and sacks, binders, seedlings, cuttings, and containers are to be used as described in section 237-5, or to be incorporated in a manufactured product as described in paragraph (2) of this section.
- (7) Sales of tangible personal property to a licensed person engaged in the service business, provided that (1) said property is not consumed or incidental to the performance of the services; (2) there is a resale of said article at the retail rate of 4 per cent; and (3) the resale of said article is separately charged or billed by the person rendering the services.

If the use tax law is finally held by a court of competent jurisdiction to be unconstitutional or invalid insofar as it purports to tax the use or consumption of tangible personal property imported into the State in interstate or foreign commerce or both, wholesalers and jobbers shall be taxed thereafter under this chapter in accordance with the following definition (which shall supersede the preceding paragraph otherwise defining 'wholesaler' or 'jobber'): 'Wholesaler' or 'jobber' means a person, or a definitely organized division thereof, definitely organized to render and rendering a general distribution service which buys and maintains at his or its place of business a stock or lines of merchandise which he or it distributes; and which, through salesmen, advertising, or sales promotion devices, sells to licensed retailers, to institutional or licensed commercial or industrial users, in wholesale quantities and at wholesale rates. A corporation deemed not to be carrying on a trade or business in this State under section 235-6 shall nevertheless be deemed to be a wholesaler and shall be subject to the tax imposed by this chapter."

SECTION 10. Section 237-13, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 237-13, Imposition of tax. There is hereby levied and shall be assessed and collected annually privilege taxes against persons on account of their business and other activities in the State measured by the application of rates against values of products, gross proceeds of sales, or gross income, whichever is specified, as follows:

(1) Tax on manufacturers.

- (A) Upon every person engaging or continuing within the State in the business of manufacturing, compounding, canning, preserving, packing, commercial job printing but not including the printing and publishing of a newspaper, milling, processing, refining, or preparing for sale, profit, or commercial use, either directly or through the activity of others, in whole or in part, any article or articles, substance or substances, commodity or commodities, the amount of the tax to be equal to the value of the articles, substances, or commodities, manufactured, compounded, canned, preserved, packed, printed, milled, processed, refined, or prepared, for sale, as shown by the gross proceeds derived from the sale thereof by the manufacturer or person compounding, preparing, or printing them, multiplied by one-half of one per cent.
- (B) The measure of the tax on manufacturers is the value of the entire product for sale, regardless of the place of sale or the fact that deliveries may be made to points outside the State.
- (C) If any person liable for the tax on manufacturers shall ship or transport his products, or any part thereof, out of the State, whether in a finished or unfinished condition, or shall sell the same for delivery outside of the State (for example, consigned to a mainland purchaser via common carrier f.o.b. Honolulu), the value of the products in the condition or form in which they exist

immediately before entering interstate or foreign commerce, determined as hereinafter provided, shall be the basis for the assessment of the tax imposed by this paragraph (1). This tax shall be due and payable as of the date of entry of the products into interstate or foreign commerce, whether the products are then sold or not. The department of taxation shall determine the basis for assessment, as provided by this paragraph, as follows:

- (i) If the products at the time of their entry into interstate or foreign commerce already have been sold, the gross proceeds of sale, less the transportation expenses, if any, incurred in realizing the gross proceeds for transportation from the time of entry of the products into interstate or foreign commerce, including insurance and storage in transit, are the measure of the value of the products.
- (ii) If the products have not been sold at the time of their entry into interstate or foreign commerce, and in cases governed by paragraph (i) in which the products are sold under circumstances such that the gross proceeds of sale are not indicative of the true value of the products, the value of the products constituting the basis for assessment shall correspond as nearly as possible to the gross proceeds of sales for delivery outside the State, adjusted as provided in paragraph (i), or if sufficient data are not available, sales in the State, of similar products of like quality and character and in similar quantities, made by the taxpayer (unless not indicative of the true value) or by others. Sales outside the State, adjusted as provided in paragraph (i), may be considered when they constitute the best available data. The department shall prescribe uniform and equitable rules for ascertaining such values.
- (iii) At the election of the taxpayer and with the approval of the department, the taxpayer may make his returns under paragraph (i) even though the products have not been sold at the time of their entry into interstate or foreign commerce.
- (iv) In all cases in which products leave the State in an unfinished condition the basis for assessment shall be adjusted so as to deduct such portion of the value as is attributable to the finishing of the goods outside the State.

(2) Tax on business of selling tangible personal property; producing.

- (A) Upon every person engaging or continuing in the business of selling any tangible personal property whatsoever (not including, however, bonds or other evidence of indebtedness, or stocks), there is likewise hereby levied, and shall be assessed and collected, a tax equivalent to four per cent of the gross proceeds of sales of the business; provided, that insofar as certain retailing is

taxed by section 237-16, the tax shall be that levied by section 237-16, and in the case of a wholesaler, the tax shall be equal to one-half of one per cent of the gross proceeds of sales of the business. Upon every person engaging or continuing within this State in the business of a producer the tax shall be equal to one-half of one per cent of the gross proceeds of sales of the business, or the value of the products, for sale, if sold for delivery outside the State or shipped or transported out of the State, and the value of the products shall be determined in the same manner as the value of manufactured products covered in the cases under paragraph (1) (C) of this section.

- (B) Gross proceeds of sales of tangible property in interstate and foreign commerce shall constitute a part of the measure of the tax imposed on persons in the business of selling tangible personal property, to the extent, under the conditions, and in accordance with the provisions of the Constitution of the United States and the acts of the Congress of the United States which may be now in force or may be hereafter adopted, and whenever there occurs in the State an activity to which, under the Constitution and Acts of Congress, there may be attributed gross proceeds of sales, such gross proceeds shall be so attributed.
- (C) No manufacturer or producer, engaged in such business in the State and selling his products for delivery outside of the State (for example, consigned to a mainland purchaser via common carrier f.o.b. Honolulu), shall be required to pay the tax imposed in this chapter for the privilege of so selling his products, and the value or gross proceeds of sales of the products shall be included only in determining the measure of the tax imposed upon the manufacturer or producer as such.
- (D) When a manufacturer or producer, engaged in such business in the State, also is engaged in selling his products in the State at wholesale, retail, or in any other manner, the tax for the privilege of engaging in the business of selling the products in the State shall apply to him as well as the tax for the privilege of manufacturing or producing in the State, and he shall make the returns of the gross proceeds of the wholesale, retail, or other sales required for the privilege of selling in the State, as well as making the returns of the value or gross proceeds of sales of his products required for the privilege of manufacturing or producing in the State. He shall pay the tax imposed in this chapter at the highest rate applicable for any of the privileges exercised by him in respect of the particular products, and the value or gross proceeds of sales of the products, thus subjected to tax at the highest rate, may be deducted insofar as duplicated as to the same products by

the measure of the tax upon him for the other privileges enumerated in this paragraph (2), paragraph (1), and section 237-16.

- (E) A taxpayer selling to a federal cost-plus contractor may make the election provided for by paragraph (3) (C) of this section, and in any such case the tax shall be computed pursuant to the election, notwithstanding this paragraph (2) or paragraph (1) to the contrary.
- (F) The department, by regulation, may provide that a seller may take from the purchaser of tangible personal property a certificate, in such form as the department shall prescribe, certifying that the sale is a sale at wholesale. If the certificate is so provided for by regulation of the department:
 - (i) Any purchaser who shall furnish such a certificate shall be obligated to pay to the seller, upon demand, if the sale in fact is not at wholesale, the amount of the additional tax which by reason thereof is imposed upon the seller; and
 - (ii) The absence of such a certificate shall, unless the sales of the business are exclusively at wholesale, in itself give rise to the presumption that the sale is not at wholesale.

(3) Tax upon contractors.

- (A) Upon every person engaging or continuing within the State in the business of contracting, the tax shall be equal to four per cent of the gross income of the business; provided, that insofar as the business of contracting is taxed by section 237-16, which relates to certain retailing, the tax shall be that levied by section 237-16.
- (B) In computing the tax levied under this paragraph (3) or section 237-16, there shall be deducted from the gross income of the taxpayer so much thereof as has been included in the measure of the tax levied under paragraph (3) (A) or section 237-16, on another taxpayer who is a contractor, as defined, or who is a specialty contractor, duly licensed by the department of regulatory agencies pursuant to section 444-9, in respect of his business as such, if the tax on the amount so deducted has been paid by the other person, or has been withheld by the taxpayer and shall be paid over by him to the assessor at the time of filing the return, such withholding being hereby authorized; but any person claiming a deduction under this paragraph shall be required to show in his return the name of the person paying the tax on the amount deducted by him or from whom the tax was withheld, and shall issue a receipt for any amount of tax withheld, which upon filing by the other taxpayer with his return, shall relieve the other taxpayer of liability for the amount of tax withheld.

- (C) In computing the tax levied under this paragraph (3) against any federal cost-plus contractor, there shall be excluded from the gross income of the contractor so much thereof as fulfills the following requirements:
- (i) The gross income exempted shall constitute reimbursement of costs incurred for materials, plant, or equipment purchased from a taxpayer licensed under this chapter, not exceeding the gross proceeds of sale of the taxpayer on account of the transaction.
 - (ii) The taxpayer making the sale shall have certified to the department that he is taxable with respect to the gross proceeds of the sale, and that he elects to have the tax on such gross income computed the same as upon a sale to the state government.
- (D) A person who, as a business or as a part of a business in which he is engaged, erects, constructs, or improves any building or structure, of any kind or description, or makes, constructs, or improves any road, street, sidewalk, sewer, or water system, or other improvements on land held by him (whether held as a leasehold, fee simple, or otherwise), shall upon the sale or other disposition of the land or improvements, even if the work was not done pursuant to a contract, be liable to the same tax as if engaged in the business of contracting, unless he shall show that at the time he was engaged in making the improvements it was, and for the period of at least one year after completion of the building, structure, or other improvements, it continued to be his purpose to hold and not to sell or otherwise dispose of the land or improvements. The tax in respect of the improvements shall be measured by the amount of the proceeds of the sale or other disposition that is attributable to the erection, construction, or improvement of such building or structure, or the making, constructing, or improving of the road, street, sidewalk, sewer, or water system, or other improvements. The measure of tax in respect of the improvements shall not exceed the amount which would have been taxable had the work been performed by another, subject as in other cases to the deductions allowed by paragraph (3) (B). Upon the election of the taxpayer this paragraph may be applied notwithstanding the improvements were not made by the taxpayer, or were not made as or as a part of a business, or were made with the intention of holding the same. However, this paragraph shall not apply in respect of any proceeds that constitute or are in the nature of rent; all such gross income shall be taxable under paragraph (9).
- (4) Tax upon theaters, amusements, radio broadcasting stations, etc. Upon every person engaging or continuing within the State in the

business of operating a theater, opera house, moving picture show, vaudeville, amusement park, dance hall, skating rink, radio broadcasting station, or any other place at which amusements are offered to the public, the tax shall be equal to four per cent of the gross income of the business.

- (5) Tax upon sales representatives, etc. Upon every person classified as a representative or purchasing agent under chapter 237-1, engaging or continuing within the State in the business of performing services for another, other than as an employee, there is likewise hereby levied and shall be assessed and collected a tax equal to four per cent of the commissions and other compensation attributable to the services so rendered by him.
- (6) Tax on service business. Upon every person engaging or continuing within the State in any service business or calling not otherwise specifically taxed under this chapter, there is likewise hereby levied and shall be assessed and collected a tax equal to four per cent of the gross income of any such business; provided, however, where any person engaging or continuing within the State in any service business or calling renders such services upon the order of or at the request of another taxpayer who is engaged in the service business and who, in fact, acts as or acts in the nature of an intermediary between the person rendering such services and the ultimate recipient of the benefits of such services, so much of the gross income as is received by the person rendering the services shall be subjected to the tax at the rate of one-half of one per cent and all of the gross income received by the intermediary from the principal shall be subjected to a tax at the rate of four per cent.
- (7) Tax on insurance solicitors. Upon every person engaged as a licensed solicitor pursuant to chapter 431, there is hereby levied and shall be assessed and collected a tax equal to two per cent of the commissions due to such activity.
- (8) Professions. Upon every person engaging or continuing within the State in the practice of a profession, including those expounding the religious doctrines of any church, there is likewise hereby levied and shall be assessed and collected a tax equal to four per cent of the gross income on the practice or exposition.
- (9) Tax on other business. Upon every person engaging or continuing within the State in any business, trade, activity, occupation, or calling not included in the preceding paragraphs or any other provisions of this chapter, there is likewise hereby levied and shall be assessed and collected, a tax equal to four per cent of the gross income thereof. In addition, the rate prescribed by this paragraph shall apply to a business taxable under one or more of the preceding paragraphs or other provisions of this chapter, as to any gross income thereof not taxed

thereunder as gross income or gross proceeds of sales or by taxing an equivalent value of products, unless specifically exempted.”

SECTION 11. Section 237-18(c), Hawaii Revised Statutes, is repealed.

SECTION 12. Section 237-23, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“Sec. 237-23. Exemptions, persons exempt, applications for exemption. (a) This chapter shall not apply to the following persons:

- (1) National banks;
- (2) Banks taxable under chapter 241;
- (3) Public service companies (as that term is defined in section 239-2), with respect to the gross income, either actual gross income or gross income estimated and adjusted, which is included in the measure of the tax imposed by chapter 239;
- (4) Public utilities owned and operated by the State or any county or other political subdivision thereof;
- (5) Insurance companies which pay the State a tax upon their gross premiums under chapter 431;
- (6) Fraternal benefit societies, orders, or associations, operating under the lodge system, or for the exclusive benefit of the members of the fraternity itself, operating under the lodge system, and providing for the payment of death, sick, accident, or other benefits to the members of such societies, orders, or associations, and to their dependents;
- (7) Corporations, associations, or societies organized and operated exclusively for religious, charitable, scientific, or educational purposes as well as that of operating senior citizens housing facilities qualifying for a loan under the laws of the United States as authorized by section 202 of the Housing Act of 1959, as amended by the Housing Act of 1961, the Senior Citizens Housing Act of 1962, the Housing Act of 1964, and the Housing and Urban Development Act of 1965;
- (8) Business leagues, chambers of commerce, boards of trade, civic leagues, and organizations operated exclusively for the benefit of the community and for the promotion of social welfare, and from which no profit inures to the benefit of any private stockholder or individual;
- (9) Hospitals, infirmaries, and sanitarium;
- (10) Cooperative associations now or hereafter incorporated under and pursuant to chapters 421 or 422 and which fully meet the requirements of section 421-23 or section 422-33 (provided that the exemption shall apply only to the gross income derived from its activities authorized by chapters 421 or 422; and that the exemption shall not relieve any person who receives any proceeds of sale from the associa-

tion of the duty of returning and paying the tax on the total gross proceeds of the sales on account of which the payment was made, in the same amount and at the same rate as would apply thereto had the sales been made directly by the person, and all such persons shall be so taxable);

- (11) Building and loan associations taxable under chapter 241;
- (12) Persons affected with leprosy and kokuas, with respect to business within the county of Kalawao;
- (13) Corporations, companies, associations, or trusts organized for the establishment and conduct of cemeteries no part of the net earnings of which inures to the financial benefit of any private stockholder or individual (provided, that the exemption shall apply only to the activities of such persons in the conduct of cemeteries and not to any activity the primary purpose of which is to produce income, even though the income is to be used for or in the furtherance of the exempt activities of such persons);
- (14) Industrial loan companies taxable under chapter 241, provided that the exemption shall apply only to the income from the "engaging in the business of an industrial loan company" as defined in section 408-2;
- (15) Businesses which are organized for the purpose of broadcasting radio programs to areas outside of the State to promote the Hawaiian tourist industry and which are solely supported by state funds;
- (16) Local development companies incorporated under the laws of the State and approved by the Small Business Administration as qualifying for loans under section 502 of the Small Business Investment Act of 1958, as amended, provided that the exemption shall apply only with respect to gross income derived as interest on loans made to borrowers from loan funds obtained from the Small Business Administration but only if the loans are made at the same rates of interest payable to the Small Business Administration by the local development corporation;
- (17) Non-profit shippers associations operating under part 296 of the Civil Aeronautics Board Economic Regulations."

SECTION 13. Section 237-26, Hawaii Revised Statutes, is amended to read as follows:

"Section 237-26. Exemption of certain scientific contracts with the United States. (a) Any provision of law to the contrary notwithstanding, there shall be exempted from the measure of the taxes imposed by chapter 237, all of the gross proceeds derived by a contractor or subcontractor arising from the performance of any scientific work as defined in subsection (b), under a contract or subcontract entered into with the United States (including any agency or in-

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strumentality thereof), and all of the gross proceeds derived from the sale of tangible personal property by a seller of such tangible personal property to such contractor or subcontractor; provided, however, the exemption herein shall apply only to those tangible personal property which is to be affixed to, or to become a physical, integral part of the scientific facility, or which is to be entirely consumed during the performance of the service required by the contract or subcontract.

(b) For purposes of this section, 'scientific work' is work involving primarily the research and development for, or the design, manufacture, instrumentation, installation, maintenance, or operation of an electronic, test range, aerospace, oceanographic, geophysical or other scientific facilities. Maintenance or operation, for purposes of this section, shall include housekeeping functions in providing certain nonscientific logistic and support services."

SECTION 14. The exemption provided by Section 8 shall not apply to (1) gross proceeds derived from subcontracts executed prior to the effective date of this Act; (2) gross proceeds derived from the sale of tangible personal property to subcontractors performing under a general scientific contract where such sales are made prior to the effective date of this Act; (3) gross proceeds derived from maintenance and operation contracts or from sales of tangible personal property pursuant to such contracts executed prior to the effective date of this Act.

SECTION 15. Sections 9, 11, 12, 13 and 14, upon their approval, shall be effective for taxable years beginning on or after January 1, 1971. Section 10, upon its approval, shall be effective for taxable years beginning on or after January 1, 1971 except that that part which amends section 237-13(3) (B), Hawaii Revised Statutes, shall be effective for taxable years beginning on or after July 1, 1970.

PART III

SECTION 16. Section 238-3, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 238-3. Application of tax, etc. (a) The tax imposed by this chapter shall not apply to any property, or to any use of the property, which cannot legally be so taxed under the Constitution or laws of the United States, but only so long as, and only to the extent to which, the State is without power to impose the tax.

(b) The tax imposed by this chapter shall not apply to any use of property the transfer of which property to, or the acquisition of which by, the person so using the same, has actually been or actually is taxed under chapter 237.

(c) The tax imposed by this chapter shall be paid only once upon or in respect of the same property; provided, that nothing in this chapter contained shall be construed to exempt any property or the use thereof from taxation under any other law of the State.

(d) The tax imposed by this chapter shall be in addition to any other taxes imposed by any other laws of the State, except as otherwise specifically

provided herein; provided, that if it be finally held by any court of competent jurisdiction, that the tax imposed by this chapter may not legally be imposed in addition to any other tax or taxes imposed by any other law or laws with respect to the same property or the use thereof, then this chapter shall be deemed not to apply to the property and the use thereof under such specific circumstances, but such other laws shall be given full effect with respect to the property and use.

(e) The tax imposed by this chapter shall not apply to any use of property exempted by section 238-4.

(f) The tax imposed by this chapter shall not apply to any use or consumption of aircraft and vessels, the transfer of which aircraft or vessel to, or the acquisition of which by, the person so using or consuming the same, or the rental for the use of the aircraft or vessel, has actually been or actually is taxed under chapter 237.

(g) The tax imposed by this chapter shall not apply to any intoxicating liquor as defined in chapter 244 and tobacco products as defined in chapter 245, imported into the State and sold to any person or common carrier in interstate commerce, whether ocean-going or air, for consumption out-of-state by such person, crew, or passengers on the shipper's vessels or airplanes.

(g-1) The tax imposed by this chapter shall not apply to any use of vessels constructed under section 189-25, prior to July 1, 1969.

(h) Each taxpayer liable for the tax imposed by this chapter on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him with respect to the same transaction and property to another state and any subdivision thereof, but such credit shall not exceed the amount of the use tax imposed under this chapter on account of the transaction and property. The director of taxation may require the taxpayer to produce the necessary receipts or vouchers indicating the payment of the sales or use tax to another state or subdivision as a condition for the allowance of the credit.

(i) The tax imposed by this chapter shall not apply to any use of property exempted by section 237-26."

SECTION 17. Part III, upon its approval, shall be effective for taxable years beginning on and after January 1, 1971.

PART IV

SECTION 18. Subsection 243-4(c), Hawaii Revised Statutes, is amended to read as follows:

"(c) The tax shall not be collected in respect to any liquefied petroleum gas, benzol, benzene, toluol, or xylol sold for use other than for operating internal combustion engines. With respect to these products, other than liquefied petroleum gas, the department by regulation shall provide for the reporting and payment of the tax and for the keeping of records in respect thereto, in such manner as to collect, for each gallon of such product sold for use in internal combustion engines for the generation of power, or so used, the same tax or taxes as apply to each gallon of diesel oil. With respect to liquefied petroleum

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gas, the only tax collected shall be that provided in paragraphs (1), (2), and (3) of this subsection. This subsection shall not apply to aviation fuel sold for use in or used for airplanes.

- (1) Every distributor or other person who uses any liquefied petroleum gases for operation of an internal combustion engine shall pay a license tax to the department of 1 cent for each gallon of such liquefied petroleum gas so used by him.
- (2) Every distributor or other person who uses any liquefied petroleum gas for operating a motor vehicle or motor vehicles upon the public highways of the State shall, in addition to the tax required under paragraph (1) of this subsection, pay a license tax to the department for each gallon of such liquefied petroleum gas so used by him at a rate equal to two-thirds of the rates applicable to diesel oil so used upon the public highways, rounded to the nearest cent, and the taxes so paid shall be paid into the state treasury and deposited in special funds or paid over in the same manner as provided by law in respect of the tax on diesel oil so used upon the public highways.
- (3) Any liquefied petroleum gas acquired by a person who has in his ownership, possession, or control any internal combustion engine for the operation of which liquefied petroleum gas may be used, shall be presumed to have been entirely used by such person for such purpose, and if the internal combustion engine is in a vehicle which may be used on the highway, shall be presumed to have been entirely used by such person upon the highways, unless upon proper records and from such other evidence as the department may require it shall be proved to the satisfaction of the department that such liquefied petroleum gas has not been so used."

SECTION 19. Part IV, upon its approval, shall take effect on January 1, 1971.

PART V

SECTION 20. Section 246-26, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Real property owned and occupied only as his or their home by any individual or individuals, shall be exempt only to the following extent from property taxes:

- (1) Totally exempt where the value of the property is not in excess of \$5,100;
- (2) Where the value of such property is in excess of \$5,100, according to the following schedule:

Value of Property	Exemption
Over \$5,100 to \$5,299	\$5,000

5,300 to 5,499	5,100
5,500 to 5,699	5,200
5,700 to 5,949	5,400
5,950 to 6,199	5,600
6,200 to 6,499	5,800
6,500 to 6,799	6,100
6,800 to 7,099	6,400
7,100 to 7,499	6,700
7,500 to 7,999	7,100
8,000 to 8,499	7,500
8,500 and over	8,000

Provided:

- (A) That no such exemption shall be allowed to any corporation, co-partnership, or company;
- (B) That the exemption shall not be allowed on more than one home for any one taxpayer;
- (C) That where the taxpayer has acquired his home by a deed made on or after July 1, 1951, the deed shall have been recorded on or before June 30 immediately preceding the year for which the exemption is claimed;
- (D) That a husband and wife shall not be permitted exemption of separate homes owned by each of them, unless they are living separate and apart, in which case they shall be entitled to one exemption, to be apportioned between each of their respective homes in proportion to the value thereof;
- (E) That a person living on premises, a portion of which is used for commercial purposes, shall not be entitled to an exemption with respect to such portion, but shall be entitled to an exemption with respect to the portion thereof used exclusively as a home; and
- (F) That such exemption shall be revoked if the home is not occupied by the owner or owners during the first three months of the tax year."

SECTION 21. Part V, upon its approval, shall take effect on July 1, 1971.

PART VI

SECTION 22. Section 239-6, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 239-6 Airlines, certain carriers. There shall be levied and assessed upon each airline a tax of four per cent of its gross income each year from the airline business; provided that if an airline adopts a rate schedule for students in grade twelve or below traveling in school groups providing such students at reasonable hours a rate less than one-half of the regular adult fare, the tax shall be three per cent of its gross income each year from the airline business. There shall be levied and assessed upon each motor carrier, each common carrier by water, and upon each contract carrier other than a motor carrier, a tax of four per cent of its gross income each year from the motor carrier or contract carrier business. The tax imposed by this section is a means of taxing the personal property of the airline or other carrier, tangible and intangible, including going concern value, and is in lieu of the tax imposed by chapter 237 but is not in lieu of any other tax.”

SECTION 23. Part VI, upon its approval, shall take effect for taxable years beginning on and after January 1, 1970.

SECTION 24. If any Part, section, sentence, clause or phrase of this Act, or its application to any person or circumstances, is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the application of this Act to other persons or circumstances, shall not be affected. The Legislature hereby declares that it would have passed this Act and each Part, section, sentence, clause or phrase thereof irrespective of the fact that any one or more other Parts, sections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 25. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 26. Subject to the foregoing, this Act shall take effect upon its approval.

(Approved June 30, 1970.)

ACT 181

H. B. NO. 1817-70

A Bill for an Act Relating to County Positions Exempt from Civil Service.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately numbered and to read as follows:

“Sec. 46- . Exemption of certain county positions. In any county with a population of 500,000 or more, the civil service to which this section refers is comprised of all positions in the public service of such county, now existing or hereafter established, and embraces all personal services performed for such county, except the following:

* Edited accordingly

- (a) Positions of officers elected by public vote; positions of heads of departments; position of the clerk; position of the manager of the board of water supply and position of the chief of police.
- (b) Positions in the office of mayor, but such positions, except those of the heads of the offices of information and complaint and budget director, shall be included in the position classification plan. Employees of the municipal library and of the offices of information and complaint and budget director, other than the heads of such offices, however, shall not be exempted from civil service.
- (c) Positions of deputies of the corporation counsel, deputies of the prosecuting attorney and law clerks.
- (d) Positions of members of any board, commission or equivalent body.
- (e) Positions filled by inmates, patients, or students in city institutions or in the schools.
- (f) Positions of district magistrates, jurors, jury commissioners and witnesses.
- (g) Personal services obtained by contract where the director of civil service has certified that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year.
- (h) Personal services of a temporary nature needed in the public interest where the need for the same does not exceed ninety days, but before any person may be employed to render such temporary service the director of civil service shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable. The employment of any person for service of a temporary nature may be extended for good cause for an additional period not to exceed ninety days upon similar certification by the director subject to approval of the civil service commission.
- (i) Personal services performed on a fee, contract or piecework basis by persons who may lawfully perform their duties concurrently with their private business or profession or other private employment, if any, and whose duties require only a portion of their time, where it is impracticable to ascertain or anticipate the portion of time devoted to the service of the city and such fact is certified to by the director of civil service.
- (j) Positions of temporary election clerks in the office of the clerk employed during the election periods, but the positions filled by such employees shall be included in the position classification plan.
- (k) Positions of one first deputy and private secretaries to heads of de-

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partments and their first deputies; but private secretarial positions shall be included in the position classification plan. The first deputy in the department of civil service, however, shall not be exempt from civil service. The director of civil service shall determine the applicability of this section to specific positions."

SECTION 2. No change in civil service status or loss or reduction of salary, vacation allowance, service credits or other rights and privileges of any officer or employee shall be caused by the adoption of this Act.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.*

SECTION 4. This Act shall take effect on July 1, 1970.

(Approved June 30, 1970.)

ACT 182

H. B. NO. 13

A Bill for an Act Relating to Small Claims and Amending Chapter 229, Revised Laws of Hawaii 1955.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 229, Revised Laws of Hawaii 1955, is amended by deleting sections 229-13 to 229-18 and substituting in lieu thereof sections to read as follows:

"Sec. 229-13. District magistrates; powers. All district magistrates, except as otherwise provided, shall exercise jurisdiction conferred by this subtitle, and while sitting in the exercise of that jurisdiction, shall be known and referred to as the Small Claims Division of the District Court; provided that the jurisdiction of the court when sitting as a Small Claims Division of the District Court shall be confined to cases for the recovery of money only where the amount claimed does not exceed \$300 exclusive of interest, attorneys' fees and costs. This subtitle shall not abridge or affect the jurisdiction of the district magistrates to determine cases under the ordinary procedures of the court, it being optional with the parties to elect the procedure of the Small Claims Division of the District Court or the ordinary procedures.

Actions shall be commenced and maintained in Small Claims Division of the District Court as follows:

- (1) When a defendant has contracted to perform an obligation in a particular judicial district, an action founded on that obligation may be commenced and maintained either in the judicial district where the obligation is to be performed if the district is in the same county where the defendant resides, or in which the defendant, or any such defendant, resides at the commencement of the action.
- (2) When the action is for injury to person, or to personal property, either the judicial district where the injury occurs if the district is in the same county where the defendant resides, or where the defendant, or any

* Edited accordingly

such defendant, resides at the commencement of the action, shall be the proper judicial district for the trial of the action.

- (3) In all other cases, actions shall be commenced and maintained in the judicial district in which the defendant, or any such defendant, resides at the commencement of the action.

Sec. 229-14. Small claims procedure. (a) Actions shall be commenced in the Small Claims Division of the District Court by the filing of a statement of claim, in concise form and free of technicalities. All claims based on a contract, expressed or implied, shall be verified by the claimant, whether as a party plaintiff or counterclaimant, or by his agent, by oath or affirmation in the form herein provided, or its equivalent. The clerk of the court shall, at the request of an individual, prepare the statement of claim and other papers required to be filed in an action in the court, but his services shall not be available to a corporation, partnership, or association, or to any individual proprietorship in the preparation of the statements or other papers. A copy of the statement of claim and verification shall be made a part of the notice to be served upon the defendant named therein. The mode of service shall be as provided by law, or by registered mail or by certified mail with return receipt.

(b) When notice is to be served by registered mail or by certified mail, the clerk shall enclose a copy of the statement of claim, verification, and notice in an envelope addressed to the defendant, prepay the postage with funds obtained from plaintiff, and mail the papers forthwith, noting on the records the day and hour of mailing. When the receipt is returned with the signature thereon of the party to whom addressed, the clerk shall attach it to the original statement of claim, and it shall constitute prima facie evidence of personal service upon the defendant.

(c) When notice is served personally, the server shall make proof of service by affidavit sworn to before the clerk of the court or before any notary public, showing the time and place of the service.

(d) The actual cost of service shall be taxable as costs.

(e) The statement of claim, verification, and notice shall be in the following or equivalent form:

IN THE SMALL CLAIMS DIVISION OF THE DISTRICT COURT OF
COUNTY OF _____, STATE OF HAWAII
.....)
Plaintiff
.....)
Address)
vs.)
.....)
Defendant)

STATEMENT OF CLAIM

(Here the claimant, whether as party plaintiff or counterclaimant, or at his request the clerk, will insert a concise statement of the plaintiff's claim, and the original, to be filed with the clerk, may, if action is on a contract, express or implied, be verified by the plaintiff or his agent, as follows:

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STATE OF HAWAII)

COUNTY OF) ss:

.....being first duly sworn on oath says the foregoing is a just and true statement of the amount owing by defendant to claimant, whether as party plaintiff or counterclaimant, exclusive of all set-offs and just grounds of defense.)

.....
Plaintiff (or agent)

Subscribed and sworn to before me this.... day of, 19.....

.....

NOTICE

.....
Clerk (or notary public)

T O :

Defendant

.....
Home address

.....
Business address

You are hereby notified thathas made a claim and is requesting judgment against you in the sum ofdollars (\$.....), as shown by the foregoing statement. The court will hold a hearing upon this claim onatm. in the Small Claims Division of the District Court at (address of court).

You are required to be present at the hearing in order to avoid a judgment by default.

If you have witnesses, books, receipts, or other writings bearing on this claim, you should bring them with you at the time of the hearing.

If you wish to have witnesses summoned, see the clerk at once for assistance.

If you admit the claim, but desire additional time to pay, you must come to the hearing in person and state the circumstances to the court.

You may come with or without an attorney.

[Seal]

.....
Clerk of the Small Claims
Division of the District Court

(f) The foregoing verification entitles the plaintiff to a judgment by default, without further proof, upon failure of defendant to appear, if the claim of the plaintiff is for a liquidated amount. If the amount is unliquidated, the plaintiff shall be required to present proof of his claim.

(g) The clerk shall furnish the plaintiff with a notice of the day and hour set for the hearing, not less than five nor more than fifteen days from the date of the filing of the action. Where, in a case controlled by another statute, a greater or lesser time for hearing is specified by the other statute, that specified time is controlling. All actions filed in the court shall be made returnable therein.

Sec. 229-15. Fees and costs; waiver. The fee for issuing summons and copies, trial, judgment, and satisfaction in an action in the Small Claims Division of the District Court shall be not more than \$5. Other fees shall be as the court prescribes. The magistrate may waive the prepayment of costs or the pay-

ment of costs accruing during the action upon the sworn statement of the plaintiff or upon other satisfactory evidence of his inability to pay the costs. When costs are so waived the notation to be made on the records of the court shall be "Prepayment of costs waived," or "Costs waived." The term "pauper" or "in forma pauperis" may not be employed in the court. If a party fails to pay accrued costs, though able to do so, the magistrate may deny him the right to file a new case in the court while the costs remain unpaid, and likewise deny him the right to proceed further in any case pending in the court.

Sec. 229-16. Set-off or counterclaim; pleading; retention of jurisdiction. If the defendant, in an action in the Small Claims Division of the District Court, asserts a set-off or counterclaim, the magistrate may require a formal and concise plea of set-off to be filed, or may waive the requirement. If the plaintiff requires time to prepare his defense against the counterclaim or set-off, the magistrate may continue the case for that purpose. When the limit of the district court as provided by section 229-13 is exceeded in the counterclaim but within the jurisdictional limit of the court as provided by section 216-4, the action shall nevertheless remain in the Small Claims of the District Court and be tried therein in its entirety.

Sec. 229-17. Jury trial; demand; assignment to other court. In a case filed or pending in the Small Claims Division of the District Court in which a party entitled to a trial by jury files a demand therefor, the case shall be assigned to and tried in the circuit court under the procedure provided for jury trials.

Sec. 229-18. Pre-trial settlement; trial; procedure; dismissal or nonsuit; other disposition. (a) On the return day specified by subsection 229-14(g), or at such later time as the magistrate sets, the trial shall be had. Immediately prior to the trial of a case pursuant to this subtitle, the magistrate shall make an earnest effort to settle the controversy by conciliation. If no settlement is effected, the magistrate shall proceed with the hearing on the merits pursuant to subsection (b) of this section.

(b) The parties and witnesses shall be sworn. The magistrate shall conduct the trial in such manner as to do substantial justice between the parties according to the rules of substantive law, and is not bound by the statutory provisions or rules of practice, procedure, pleading, or evidence, except provisions relating to privileged communications.

(c) If the defendant fails to appear, judgment shall be entered for the plaintiff by default as provided by section 229-14(f), or under rules of court, or on ex-parte proof. If the plaintiff fails to appear, the action may be dismissed for want of prosecution, or a nonsuit may be ordered, or defendant may proceed to a trial on the merits, or have default judgment entered in his favor on any counterclaim filed in the manner provided herein for a plaintiff, or the case may be continued or returned to the files for further proceedings on a later date, as the magistrate directs. If both parties fail to appear, the magistrate may return the case to the files, or order the action dismissed for want of prosecution, or make any other disposition thereof as justice requires.

Sec. 229-19. Judgment for wages; oral examination; payment. When a judgment rendered in an action pursuant to this subtitle is founded in whole or in part on a claim for wages or personal services, the magistrate shall, upon motion of the party obtaining judgment, order the appearance of the party against whom the judgment has been entered but not more often than once each week for four consecutive weeks, for oral examination under oath as to his financial status and his ability to pay the judgment, and the magistrate shall make such supplementary orders as seems just and proper to effectuate the payment of the judgment upon reasonable terms.

Sec. 229-20. Award of costs. In any action pursuant to this subtitle, the award of costs is in the discretion of the magistrate, who may include therein the reasonable cost of bonds and undertakings, and other reasonable expenses incident to the action, incurred by either party.

Sec. 229-21. Other rights of judgment creditor. Except as otherwise provided by this subtitle, or in the rules prescribed pursuant to section 229-23, a party obtaining a judgment in the Small Claims Division of the District Court is entitled to the same remedies, processes, costs, and benefits as are given or inure to other judgment creditors in the court.

Sec. 229-22. Rules; forms and public information. For the more effective carrying out of this subtitle, the justices or a majority of them of the supreme court may make uniform rules governing the procedure in the Small Claims Division of the District Court. The justices shall cause to be published a booklet or pamphlet describing, in language readily understandable by a layman, the procedures of the Small Claims Division of the District Court, the remedies available upon judgment in the Small Claims Division of the District Court and such other information as will facilitate the utilization of the Small Claims procedure. The justices shall also cause to be made such standardized forms as may be utilized throughout the Small Claims procedure prior to, upon and after judgment.

Sec. 229-23. Parties. Wherever the term party or parties appears herein, or any reference is made to individuals desiring to present a claim, then such term or terms or reference shall mean and include a party defendant having a counterclaim, offset or crossclaim to present in the action."

SECTION 2. This Act shall take effect upon its approval.
(Approved June 30, 1970.)

ACT 183

S. B. NO. 1282-70

A Bill for an Act Relating to the Progressive Neighborhoods Task Force.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 362-12(1), Hawaii Revised Statutes, as amended by Act 145, section 2(1), Session Laws of Hawaii 1969, is amended to read as follows:

"(1) The task force shall be appointed by the governor. The basic members of the task force shall be the state administrative director, the director of

social services, the director of health, the superintendent of education, the director of labor and industrial relations, a judge of the family court of the first circuit, the president of the university of Hawaii, the director of the Hawaii office of economic opportunity, the executive secretary of the advisory commission on manpower and full employment, the executive secretary of the commission on children and youth, the executive secretary of the commission on aging, the chairman of the Hawaiian homes commission, and three members of the general public or their representatives. The task force shall also include at least three citizens of the target area, the exact number being left to the discretion of the governor. In the event the task force undertakes its endeavors in a neighborhood other than on the island of Oahu, the task force shall also include a judge of the family court of the circuit in which the neighborhood is located. The state administrative director shall serve as chairman."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 30, 1970.)

ACT 184

S. B. NO. 1706-70

A Bill for an Act Relating to Public Lands.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 171-45, Hawaii Revised Statutes, is hereby amended to read as follows:

"Sec. 171-45. Residence lots; sale or leases. The board may dispose of public land for personal residence purposes (1) by sale in fee simple or lease at public auction as provided in sections 171-14 and 171-16, or (2) by sale or lease of lots by drawing as provided in sections 171-15 and 171-16."

SECTION 2. Sec. 171-48, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 171-48. Residence lots, requirements. In the disposition of lots for residence purposes:

- (1) No person shall purchase or lease, directly or indirectly through an agent, nominee, third person, or otherwise, any interest in more than one lot.
- (2) No person and no unmarried minor child, whose spouse or parent purchases or leases a lot, shall be eligible to purchase or lease any lot.
- (3) The board of land and natural resources shall require the lessee or purchaser to construct, within three years after disposition, a dwelling of such size and value as shall be prescribed by the board and to use the lot and dwelling as his principle domicile.

* Edited accordingly

- (4) The board shall establish such additional restrictions, requirements or conditions in accordance with the powers granted to it in section 171-6 (6).
- (5) No person shall be eligible to purchase or lease any lot by drawing if his gross income including the gross income of his spouse exceeds \$20,000 per year. In determining gross income, the standard income tax exemption for each of his dependents, as determined by the income tax laws of the State, shall be allowed.
- (6) No person shall be qualified to purchase or lease any lot who, or whose spouse, or both of them, owns or is a lessee, under a residential lease for a term exceeding twenty years (including any periods for which the lease may be extended or renewed at the option of the lessee), of land suitable for residential use.

SECTION 3. Section 171-49, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 171-49. Residence lots; unsold; forfeited; surrendered. Any lot not sold or leased at public auction or drawing, or sold or leased and forfeited, or surrendered after sale or lease with the consent of the board of land and natural resources, which consent is authorized, may, subject to section 171-21, be disposed of by the board as follows:

- (1) The board shall hold the lot without disposition for a period of thirty days, during which time, any person otherwise qualified to bid interested in securing the lot may apply therefor in writing.
- (2) Upon the expiration of thirty days, if not more than one person has applied for the lot, the board may dispose of the lot to the sole applicant without public auction at not less than the prior upset price; provided, that if the lot is one among several available lots and there are more applicants than available lots, this paragraph shall not apply.
- (3) If more than one person has applied for the lot, or if there are more applicants than available lots, upon the expiration of thirty days, the board shall by sale or lease dispose of the lot or all of the available lots, as the case may be, at drawing as provided in section 171-15 or at public auction as provided in sections 171-14 and 171-16, at the prior upset price or, if the drawing or public auction is held more than six months after the date of the prior drawing or public auction, at the upset price fixed by a reappraisal."

SECTION 4. Subsection 171-50(a) Hawaii Revised Statutes, is amended to read as follows:

"Sec. 171-50. Exchanges. (a) Purpose. No exchange of public land for private land shall be made except for public purposes, including, but not limited to (1) consolidation of holdings of public lands; (2) straightening of boundaries of public lands; (3) acquisition of adequate access for landlocked

public lands which have development potential; or (4) acquisition of lands suitable for residential use. Exchanges shall be effected without public auction. Public notice of any proposed exchange shall be given in accordance with the applicable provisions set forth in section 171-16(d). All private lands conveyed to the State by way of exchanges shall thereafter become public lands.”

SECTION 5. Section 171-74, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 171-74. Qualifications of lessees.** To qualify for a residential lease under this part, the lessee shall:

- (1) Be of legal age and have at least one person, related to him by blood or marriage and solely dependent upon him for support, who will occupy the premises with the lessee; provided, that this requirement shall not apply to a husband and wife who are joint lessees, even if both are employed;
- (2) Be a citizen and a resident of the State for not less than five years immediately preceding the issuance of the lease;
- (3) Have a gross income not in excess of \$20,000 a year, including the gross income of his spouse. In determining gross income, the standard income tax exemption for each of his dependents, as determined by the income tax laws of the State, shall be allowed; and
- (4) Have such other qualifications as may be established by the board of land and natural resources.

Any person who, after taking a residential lease, through change or circumstances, loses the qualifications initially required of him or becomes disqualified to take a residential lease, shall not thereby be required to surrender his residential lease, but shall be entitled to continue to hold the same.”

SECTION 6. Part II C of chapter 171, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**Sec. 171- . Resale, first offer to board; limitation on resale price.** (a) Any lot sold or leased for residential use pursuant to this part shall not be sold or transferred again by the purchaser, his executor, or his heirs for a period of ten years from date of disposition unless he first offers the land or lease and improvements for sale and surrender to the board in accordance with the provisions of section 171-17(c) or section 171-81, as the case may be.”

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 8. This Act shall take effect upon its approval.

(Approved June 30, 1970.)

* Edited accordingly

A Bill for an Act Relating to the State Budget.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Short title. This act may be cited as “The Executive Budget Act.”

SECTION 2. Definitions. Unless otherwise clear from the context, as used in this act:

(a) “Agency” means any executive department, independent commission, board, bureau, office, or other establishment of the State government (except the legislature), or any quasi-public institution which is supported in whole or in part by State funds.

(b) “Bond categories” means types of bonds and includes general obligation bonds, reimbursable general obligation bonds, and revenue bonds.

(c) “Bond fund” means the fund used to account for the proceeds of bond issues and expenditures therefrom.

(d) “Bond receipts” means the proceeds from the issuance of governmental bonds.

(e) “Capital investment costs” means costs, beyond the research and development phase, associated with capital improvements, including the acquisition and development of land, the design and construction of new facilities, and the making of renovations or additions to existing facilities, which are required for a new program, system or capability to be introduced into use.

(f) “Construction costs” means the costs involved in building, equipping and landscaping capital facilities, including any consultant or staff services required.

(g) “Cost categories” means the major types of costs and includes research and development, capital investment, non-capital investment, and operating.

(h) “Cost elements” means the major subdivisions of a cost category. For the category “research and development,” it includes research, planning, and test and evaluation. For the category “capital investment,” it includes land acquisition, design, and construction. For the category “non-capital investment,” it includes such items as in-service training, books, etc. For the category “operating,” it includes personal services, other current expenses, equipment, and motor vehicles.

(i) “Cost subelements” means further subdivisions of a cost element. For the cost element “capital investment-land acquisition,” it includes land, consultant services, and staff services. For the cost element “capital investment-design,” it includes consultant services and staff services. For the cost element “capital investment-construction,” it includes building, equipment, landscaping, consultant services, and staff services.

(j) “Crosswalk” means a reconciliation of the program structure with the structure used for accounting and/or appropriations.

(k) “Debt service” means interest and principal repayments on monies borrowed.

(l) "Departmental earnings" means the amounts collected by governmental agencies for services provided and products or property sold; rentals collected for use of public property; fees, fines, forfeitures, and penalties assessed; and other related types of charges.

(m) "Design costs" means the costs related to the preparation of architectural drawings for capital improvements through its various stages from schematic to final construction drawings. It does not include costs associated with the identification of needs, determining alternative ways of meeting needs, and prescription of standards for capital improvements.

(n) "Effectiveness measure" means the criterion for measuring the degree to which the objective sought is attained.

(o) "Federal aid interstate" means funds received from the federal government for the purpose of constructing the interstate highway system in the State.

(p) "Federal aid primary" means funds received from the federal government for the purpose of constructing primary roadways.

(q) "Federal aid secondary" means funds received from the federal government for the purpose of constructing secondary roadways.

(r) "Federal aid urban" means funds received from the federal government for the purpose of constructing roads in urban areas.

(s) "Federal receipts" means financial aid received from the federal government.

(t) "Full cost" means the total cost of a program, system or capability, including research and development costs, capital and non-capital investment costs, and operating costs.

(u) "General fund" means the fund used to account for all transactions which are not accounted for in another fund.

(v) "General obligation bonds" means certificates or notes of indebtedness for the payment of the principal and interest of which the full faith and credit of the State are pledged.

(w) "General obligation reimbursable bonds" means general obligation bonds, the principal and interest of which are paid from the general fund but the general fund is reimbursed to the extent of such payments from other sources.

(x) "Land acquisition costs" means the costs of obtaining lands, including any consultant or staff services costs attributable to that acquisition.

(y) "Non-add" means a program which is listed with an objective or a program grouping, but the cost of which is not to be included in the total cost of that objective or program grouping because it is included in some other objective or program group.

(z) "Non-capital investment costs" means costs, beyond the research and development phase, other than investment costs for capital improvements, which are required for a new program, system or capability to be introduced into use (e.g., cost of initial training of personnel which is required for a program to get underway).

(aa) "Non-tax revenue sources" means sources other than taxes from which revenues are produced and includes departmental earnings of various

kinds, reimbursements of principal on general obligation bonds issued for State agencies and counties, federal receipts which are restricted in their use to specified purposes, and other federal receipts.

(bb) "Objective" means a statement of the end result, product, or condition desired, for the accomplishment of which a course of action is to be taken.

(cc) "Operating costs" means recurring costs of operating, supporting and maintaining authorized programs, including costs for personnel salaries and wages, employee fringe benefits, supplies, materials, equipment and motor vehicles.

(dd) "Phases of capital improvement project" means land acquisition, design and construction.

(ee) "Planning" means that process by which government objectives are formulated; measures by which effectiveness in attaining the objectives are identified; alternatives by which objectives may be attained are determined; the full cost, effectiveness and benefit implications of each alternative are determined; the assumptions, risks and uncertainties of the future are clarified; and cost and effectiveness and benefit tradeoffs of the alternatives are identified.

(ff) "Program" means a combination of resources and activities designed to achieve an objective or objectives. In the context of the program structure, "program" may be a principal subdivision within a level of the structure and consist of a group of programs, all serving a common objective.

(gg) "Program element" means a subdivision of a program in the program structure, consisting of resources and activities designed to produce a specific, identifiable output.

(hh) "Program size" means the magnitude of a program, such as the number of persons serviced by the program, the amount of a commodity, the time delays, the volume of service in relation to population or area, etc.

(ii) "Program size indicator" means a measure to indicate the magnitude of a program.

(jj) "Program structure" means a display of programs which are grouped in accordance with the objectives to be achieved.

(kk) "Program subelement" means a further subdivision of a program element where necessary to identify in more detail specific, identifiable outputs.

(ll) "Programming" means that process by which government's long-range program and financial plans are scheduled for implementation over a six-year period and which specifies what programs are to be implemented, how they are to be implemented, when they are to be implemented, and what the costs of such implementation are.

(mm) "Reimbursable general obligation bonds" means general obligation bonds, the principal and interest of which are paid from the general fund but the general fund is reimbursed to the extent of such payments from other sources.

(nn) "Research and development costs" means costs primarily associated with the development of a new program, system or capability to the point where capital and/or non-capital investments are required to introduce the program, system or capability into operational use.

(oo) "Resource categories" means types of resources and includes tax revenues, departmental earnings, and federal receipts.

(pp) "Revenue bonds" means certificates or notes of indebtedness payable from and secured solely by the revenues or user taxes, or any combination of both, of a public undertaking, improvement, or system.

(qq) "Revolving fund" means a fund from which is paid the cost of goods and services rendered or furnished to or by a State agency and which is replenished through charges made for the goods or services or through transfers from other accounts or funds.

(rr) "Sources of funding" means the various sources from which funds are available and includes the general fund, special fund, revolving fund, general obligation bonds, reimbursable general obligation bonds, revenue bonds, federal aid interstate highway fund, federal aid primary road fund, federal aid secondary road fund, federal aid urban fund, other federal funds, private contributions, county funds, trust funds, and other funds.

(ss) "Special funds" means funds which are dedicated or set aside by law for a specified object or purpose, but excluding revolving funds and trust funds.

(tt) "Taxes" and "tax revenue sources" mean each specific kind of tax.

(uu) "Tax revenues" means the amounts collected from compulsory charges, in the form of taxes, levied by the State for the purpose of financing services performed for the common public benefit.

(vv) "Trust fund" means a fund in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise or bequest that limits the use of the fund to designated objects or purposes.

SECTION 3. Statement of policy. It is the purpose of this act to establish a comprehensive system for State program and financial management which furthers the capacity of the governor and the legislature to plan, program and finance the programs of the State. The system shall include procedures for:

(a) The orderly establishment, continuing review and periodic revision of the State program and financial objectives and policies.

(b) The development, coordination and review of long-range program and financial plans that will implement established State objectives and policies.

(c) The preparation, coordination and analysis, and enactment of a budget organized to focus on State programs and their costs, that authorizes the implementation of the long-range plans in the succeeding budget period.

(d) The evaluation of alternatives to existing objectives, policies, plans and procedures that offer potential for more efficient and effective use of State resources.

(e) The regular appraisal and reporting of program performance.

SECTION 4. Governing principles. The system shall be governed by the following general principles:

(a) Planning, programming, budgeting, evaluation, appraisal and report-

ing shall be by programs grouped by objectives, regardless of their placements in the State or agency organizational structure.

(b) The State program structure shall be such as will enable meaningful decisions to be made by the governor and the legislature at all levels of the structure. At its lowest level, it shall display those program elements or program subelements which are the simplest units of activities, each unit producing a specific, identifiable result, about which resource allocation decisions are to be made by the governor and the legislature.

(c) A program which serves two or more objectives shall be placed in the program structure along with that objective which it primarily serves; where desirable, it shall also be placed with other objectives, but as a non-add item.

(d) The full cost, including both capital and operating costs, shall be identified for all programs regardless of the source of funding; costs shall be displayed in the year of their anticipated expenditure, regardless of whether such costs have been authorized to be expended by prior appropriations acts or are authorized to be expended by existing law or require new appropriations or authorizations.

(e) Objectives shall be stated for every level of the State program structure.

(f) The effectiveness of programs in attaining objectives shall be assessed.

(g) Planning shall have a long-range view.

(h) Systematic analysis in terms of problems, objectives, alternatives, costs, effectiveness, benefits, risks and uncertainties shall constitute the core of program planning.

SECTION 5. Responsibilities of the governor. The governor shall direct the preparation and administration of State programs, program and financial plans, and budget. He shall evaluate the long-range program plans, requested budgets and alternatives to State objectives and programs; and formulate and recommend for consideration by the legislature the State's long-range plans, a proposed six-year State program and financial plan and a proposed State Budget.

SECTION 6. Responsibilities of the legislature. The legislature shall:

(a) Consider the long-range plans, including the proposed objectives and policies, the six-year State program and financial plan, and the budget and revenue proposals recommended by the governor and any alternatives thereto.

(b) Adopt programs and the State budget and appropriate moneys to implement the programs it deems appropriate.

(c) Adopt such other legislation as necessary to implement State programs.

(d) Review the implementation of the State budget and program accomplishments and execution of legislative policy direction. Implementation of the State budget and program management, execution, and performance shall be subject to post-audits by the auditor who shall report his findings and recommendations to the legislature as provided in chapter 23, Hawaii Revised Statutes.

SECTION 7. Responsibilities of the department of budget and finance.

The director of finance shall assist the governor in the preparation, explanation and administration of the State long-range plans, the proposed six-year program and financial plan and the State budget. To this end, subject to this act, the director shall:

(a) With the approval of the governor, develop procedures and prescribe rules and regulations to guide such State agencies as may be assigned by the director the task of formulating and preparing the initial proposals with respect to long-range plans, program and financial plans, program budget requests and program performance reports and to assure the availability of information needed for effective policy decision-making.

(b) Assist such State agencies in the formulation of program objectives, preparation of program plans and program budget requests, and reporting of program performance.

(c) Coordinate, analyze and revise as necessary the program objectives, long-range plans, program and financial plans, program budget requests and program performance reports initially proposed or prepared by such State agencies and develop the State comprehensive program and financial plan, budget and program performance report.

(d) Administer its responsibilities under the program execution provisions of this act so that the policy decisions and budget determinations of the governor and the legislature are implemented to the fullest extent possible within the concepts of proper management.

(e) Investigate continuously the administration of the various agencies for the purpose of advising the governor and recommending to the governor, the legislature and the committees of the legislature concerning the duties of the various positions in these agencies, the methods of the agency, the standards of efficiency therein, and changes which in his judgment will produce greater effectiveness of programs and economy in the conduct of government programs and assist in the preparation of program and financial plans, budget requests and program performance reports.

(f) Provide the legislature and any member or committee of either house of the legislature with such documents and information as may be requested concerning the programs, budget, and fiscal and management operations of the State.

SECTION 8. Responsibilities of agencies. Under such rules and regulations as may be prescribed by the director of finance with the approval of the governor:

(a) Every agency assigned the task of developing programs and preparing program and financial plans, budgetary requests and program performance reports shall develop such programs and prepare such plans, requests and reports and submit the same to the director of finance at such times, on such forms and in such manner as the director may prescribe.

(b) Every agency administering State programs and every agency responsible for the formulation of programs and the preparation of program and financial plans, budgetary requests and program performance reports, shall fur-

nish the department of budget and finance all such documents and information as the department may from time to time require. Each agency shall make available to the legislature and any member or committee of either house of the legislature, all documents and information as may be requested.

(c) The director of finance or any employee of the department of budget and finance, when duly authorized, shall, for the purpose of securing information, have access to and may examine any books, documents, papers or records of any agency.

SECTION 9. The six-year program and financial plan. (a) The governor shall prepare a State six-year program and financial plan encompassing all State programs. The program and financial plan shall be annually and continually updated and maintained, and copies of the current plan shall be transmitted to the legislature and to each member thereof, not less than twenty days prior to the convening of each regular session. The program and financial plan shall, in general, contain:

- (1) The State program structure.
- (2) Statements of statewide objectives and program objectives.
- (3) Program plans which describe the programs recommended to implement the statewide and program objectives and the manner in which the recommended programs are proposed to be implemented over the next six fiscal years.
- (4) A financial plan which shows the fiscal implications of the recommended programs for the next six fiscal years.

(b) The information contained in the program and financial plan shall be presented generally in the following manner:

- (1) Information shall be displayed by programs, regardless of their placement in the State or agency organizational structure.
- (2) Programs shall be appropriately crosswalked to expending agencies.
- (3) Data shall be appropriately summarized at each level of the program structure.
- (4) Program costs shall include all costs, both operating and capital, regardless of the source of funding, except that the sources of funding shall be expressly identified; all costs shall be displayed in the year of their anticipated expenditure, regardless of whether such costs have been authorized to be expended by prior appropriations acts or are authorized to be expended by existing law, or require new appropriations or authorizations.
- (5) Cost data shall be presented to the nearest thousand dollars.
- (6) Comparative data for the last completed fiscal year and the fiscal year in progress shall be shown.

(c) The financial plan for the ensuing six fiscal years shall more specifically include:

- (1) Economic data for the State and the counties of the following kinds:
 - (A) Population - historical, current and projected population count; population distribution by age and sex; estimated increases and decreases, including increases and decreases by in-migration; etc.
 - (B) Employment - magnitude of labor force by age and sex; labor force participation rates; employment by age and sex; industry and occupational surpluses and shortages; effects of government programs on employment rate; etc.
 - (C) Income - per capita and per family income; disposable income; income distribution; etc.
 - (D) Wages and prices - wages by industry and occupational groups; prices for government procurement items; construction costs; cost of living index; price indices for components of personal consumption; etc.
 - (E) Industry and business trends.
 - (F) Effects of national economic and financial policies and conditions.
- (2) Brief statements disclosing the basis upon which the revenue estimates in the plan were made, including for each specific tax and non-tax revenue source, the previous projections for the last completed fiscal year and the fiscal year in progress, the variance between the projections and the actual or revised estimate, and the reasons for the variances; the tax or source base and rates; yield projections of existing revenue sources and existing taxes at authorized rates; assumptions made and methodology used in projections; changes recommended, projected yields if changes are adopted, etc.
- (3) At the lowest level on the State program structure, for each program:
 - (A) The total actual program cost for the last completed fiscal year, the estimated cost for the fiscal year in progress and the estimated cost for each of the next six fiscal years; both operating and capital costs shall be included and the sources of funding and the number of positions included in the cost shall be appropriately identified.
 - (B) The program size indicators; the actual size attained in the last completed fiscal year, the estimated size for the fiscal year in progress and the estimated size for each of the next six fiscal years.
 - (C) The effectiveness measures; the actual level of effectiveness attained in the last completed fiscal year, the estimated level of effectiveness for the fiscal year in progress, and the estimated level for each of the next six fiscal years.

- (4) Appropriate summaries of (3)(A) and (C) immediately above, at every level of the State program structure above the lowest level, by the major groupings of programs encompassed within the level. The summaries of (3)(A) shall appropriately identify the sources of funding and the number of positions included in any cost.
- (5) Financial summaries displaying the State's financial condition, actual for the last completed fiscal year, estimated for the fiscal year in progress, and estimated for each of the next six fiscal years, including:
 - (A) A display of the programmed, total State expenditures, by cost categories, the total State resources anticipated from existing tax and non-tax sources at existing rates, by resource categories (including the fund balance or deficit at the beginning of the fiscal year and bond receipts), and the resulting fund balance or deficit at the close of each fiscal year.
 - (B) The changes proposed to the existing tax and non-tax rates, sources or structure, and the estimated increases or reductions in revenues, the estimated cumulative increases or reductions, and the estimated fund balance or deficit in each of the next six fiscal years as a result of such proposed changes. Proposals for changes in the existing tax and non-tax rates, sources or structure shall be made in every case where the proposed, total State expenditures exceed the total resources anticipated from existing tax and non-tax sources at existing rates.

Such financial summaries shall be prepared for the total State expenditures and resources and for the general fund and special fund portions thereof.

- (6) A summary of the balance of each special fund, actual for the last completed fiscal year and estimated for the fiscal year in progress and estimated for each of the next six fiscal years.
- (7) A summary of the State's total bond fund required to carry out the recommended programs and the kinds of bonds and amounts thereof through which such requirements were met in the last completed fiscal year, are to be met in the fiscal year in progress, and are proposed to be met in each of the next six fiscal years. The summary shall detail, for each fiscal year:
 - (A) Of the total bond fund requirements, the amount, by cost categories, requiring new bond issuance authorization and the kinds and amounts of bonds planned for issuance under such new authorizations.
 - (B) By bond categories, the total, cumulative balance of bonds authorized in prior years but unissued and the amount thereof proposed to be issued.

- (C) A recapitulation of the total bonds to be issued, including both new authorizations and prior authorizations, by bond categories.
- (8) Separately for general fund tax revenues, special fund tax revenues, general fund non-tax revenues and special fund non-tax revenues:
 - (A) By kinds of taxes or sources, the amount of revenue from existing, authorized taxes or sources at existing rates received in the last completed fiscal year and estimated to be received in the fiscal year in progress and in each of the next six fiscal years.
 - (B) A summary of the proposed changes in the existing taxes or sources or rates, and the estimated increases or reductions in revenues in each of the next six fiscal years resulting from such changes.
 - (C) The total estimated revenues with and without the proposed changes in each of the next six fiscal years.
- (d) The program plans for the ensuing six fiscal years shall more specifically include:
 - (1) At the lowest level on the State program structure, for each program:
 - (A) A statement of its objectives.
 - (B) Measures by which the effectiveness in attaining the objectives is to be assessed.
 - (C) The level of effectiveness planned for each of the ensuing six fiscal years.
 - (D) A brief description of the activities encompassed.
 - (E) The program size indicators.
 - (F) The program size planned for each of the next six fiscal years.
 - (G) A narrative explanation of the plans for the program which summarizes the findings of any program analysis performed and which explains the plans to accomplish program objectives and the programming of the plans over the next six years. It shall contain, among other things:
 - (i) a statement of the program issues;
 - (ii) the recommendations being made in terms of the objectives to be pursued and the activities to be undertaken;
 - (iii) an identification of the agencies involved in implementing various parts of the recommended program;
 - (iv) the alternatives considered in arriving at the recommendations;
 - (v) a brief and summary explanation of the results of compari-

sons made of the alternatives in terms of their costs, effectiveness and benefits.

- (vi) how effective the program has been in the past, what the apparent reasons were for this level of success or lack of it, what levels will be sought in the future and on what basis these levels were determined, both as to their absolute amounts and incremental differences;
 - (vii) what the size and scope of the program has been and is anticipated to be, how and why past estimates differed from actual experience, and how future estimates were arrived at;
 - (viii) how the program cost and revenue figures were arrived at;
 - (ix) what possible event could result in significant variations in actual versus planned performance; and
 - (x) an explanation of the significant changes proposed in the program and the implications of such changes and the rationale underlying such decisions.
- (H) The full cost implications of the recommended programs, by cost categories, cost elements and cost subelements, actually experienced in the last completed fiscal year, estimated for the fiscal year in progress, and estimated for each of the next six fiscal years. The sources of financing and the number of positions included in the costs shall be appropriately identified.
- (I) A recapitulation of (H) above for the last completed fiscal year, the fiscal year in progress and each of the next six fiscal years, by sources of funding grouped under each cost category. The number of positions included in any cost item shall be appropriately identified.
- (J) An identification of the revenues generated in the last completed fiscal year and estimated to be generated in the fiscal year in progress and in each of the next six fiscal years, and the fund into which such revenues are deposited.
- (K) Details of implementation of each capital improvement project included in the total program cost, including:
- (i) a description of the project, location and scope;
 - (ii) the initially estimated, currently estimated and final cost of the project, by investment cost elements and subelements and by sources of funding;
 - (iii) the amounts previously appropriated by the legislature for the project, by cost elements and subelements and by sources of funding specified in the acts appropriating the sums, and an identification of the acts so appropriating;

- (iv) the costs incurred in the last completed fiscal year and the estimated costs to be incurred in the fiscal year in progress and in each of the next six fiscal years, by cost elements and subelements and by sources of funding;
 - (v) a commencement and completion schedule, by month and year, of the various phases of the capital improvement project (i.e., land acquisition, design, construction and occupancy) as originally intended, as currently estimated, and as actually experienced.
- (L) A crosswalk of the program expenditures, by cost categories, cost elements and cost subelements, between the program and expending agencies for the next two fiscal years. The sources of funding and the number of positions included in the program costs to be expended by each agency shall be specified.
- (2) Appropriate summaries at every level of the State program structure above the lowest level. The summaries shall include:
- (A) A listing of all major groupings of programs included within the level, together with the objectives, measures of effectiveness and planned levels of effectiveness for each of the ensuing six fiscal years for each such major groupings of programs.
 - (B) A narrative explanation of the plans at the level to accomplish the objectives of the major groupings of programs encompassed therein, including a summary of the findings of analysis leading to the establishment of the objectives and the allocation of the State's resources over the planning period among the major program groupings.
 - (C) A summary of the total cost of each cost category by the major groupings of programs encompassed within the level, actual for the last completed fiscal year and estimated for the fiscal year in progress and for each of the next six fiscal years.

SECTION 10. The budget. (a) Not less than twenty days before the legislature convenes in every odd-numbered year, the governor shall submit to the legislature and to each member thereof, a budget which shall contain the program and budget recommendations of the governor for the succeeding two fiscal years. The budget shall, in general, contain:

- (1) The State program structure.
- (2) Statements of statewide objectives and program objectives.
- (3) The financial requirements for the next two fiscal years to carry out the recommended programs.
- (4) A summary of State receipts and revenues in the last completed fiscal year, a revised estimate for the fiscal year in progress, and an estimate for the succeeding biennium.

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(b) The information contained in the budget shall be presented generally in the following manner:

- (1) Information shall be displayed by programs, regardless of their placement in the State or agency organizational structure.
 - (2) Program financial requirements shall be appropriately crosswalked between the programs and expending agencies.
 - (3) Data shall be appropriately summarized at each level of the program structure.
 - (4) Program costs shall include all costs, both operating and capital, regardless of the source of funding, except that the sources of funding shall be expressly identified, and regardless of whether the expenditure of any sum was authorized by prior appropriations acts, is authorized by existing law, or requires new authorization, except that the amounts requiring new authorization shall be appropriately identified.
 - (5) Financial requirements shall be presented to the nearest dollar, omitting cents; and the summary of State receipts and revenues shall be presented to the nearest thousand dollars.
 - (6) The budget shall reflect the ensuing first two fiscal year program costs contained in the six-year program and financial plan.
- (c) The display of financial requirements for the ensuing two fiscal years shall more specifically include:
- (1) At the lowest level on the State program structure, for each program:
 - (A) The total recommended expenditures, including both capital and operating costs, by cost categories, for the ensuing biennium; the planned allocation of the total biennial request, by cost categories, between the two fiscal years of the biennium. In every instance, the source of funding and the number of positions included in any recommended expenditure amount shall be appropriately identified.
 - (B) A summary showing, by sources of funding, of the total recommended expenditures, those amounts requiring and those amounts not requiring legislative appropriation or authorization for spending in each fiscal year of the biennium.
 - (C) A crosswalk of the total proposed biennial expenditures between the program and expending agencies. The source of funding, the number of positions included in any cost amount, and the net amount requiring appropriation or authorization shall be appropriately identified for each expending agency.
 - (D) The proposed changes in the levels of expenditures, by cost categories, between the biennium in progress and the ensuing biennium, together with a brief explanation of the major reasons for

each change. The reasons may be coded and shall include, as appropriate, the following:

- (i) Salary adjustments to existing positions of personnel.
- (ii) The addition or deletion of positions.
- (iii) Changes in the number of persons being served or to be served by the program.
- (iv) Changes in the program implementation schedule.
- (v) Changes in the actual or planned level of program effectiveness.
- (vi) Increases due to the establishment of a program not previously included in the State's program structure.
- (vii) Decreases due to the phasing out of a program previously included in the State's program structure.
- (viii) Changes in the purchase price of goods or services.

As appropriate, references to the program and financial plan shall be noted for a fuller explanation of the changes. For each program, the total dollar and percentage change shall also be noted. Notwithstanding the provisions of section 10(b) (5), the proposed changes in the levels of expenditures may be shown to the nearest thousand dollars.

- (E) The program size indicators; the actual size attained in the last completed fiscal year and the estimated size for the fiscal year in progress and for each of the two years of the ensuing biennium.
 - (F) The effectiveness measures; the actual level of effectiveness attained in the last completed fiscal year and the estimated level of effectiveness for the fiscal year in progress and for each of the two years of the ensuing biennium.
- (2) Appropriate summaries of (1)(A), (C) and (F) immediately above at every level of the State program structure above the lowest level. Such summaries shall be by the major groupings of programs encompassed within the level. The summaries of (1)(A) shall identify the sources of funding and the number of positions included in any recommended expenditure amount.
 - (3) A summary listing of all capital improvement projects included in the proposed program expenditures for the ensuing biennium. The listing shall be by programs at the lowest level of the State program structure and shall show for each project, by investment cost elements:
 - (A) The cost of the project.
 - (B) The amount of non-lapsed sums and unissued bonds previously appropriated and authorized by the legislature.

- (C) The amount of such prior non-lapsed appropriations and authorizations and the amount of new appropriations and authorizations proposed to be expended in each of the two fiscal years of the ensuing biennium and in each of the succeeding four years. The amount of the new appropriations and authorizations proposed to be expended shall constitute the proposed new requests for the project in each of the fiscal bienniums.

In every instance, the source of funds shall be noted.

(d) The summaries of the State receipts and revenues shall more specifically include:

- (1) Financial summaries displaying the State's financial condition, to-wit:
 - (A) A display of the proposed, total State expenditures, by cost categories, the total State resources anticipated from existing taxes and non-tax sources at existing rates, by resource categories (including the available fund balances or deficits and anticipated bond receipts), and the fund balance or deficit resulting therefrom for the biennium in progress, for the ensuing biennium, and for each of the two fiscal years of the ensuing biennium.
 - (B) The changes proposed to the existing tax and non-tax rates, sources or structure, and the estimated increases or reductions in revenues, the estimated cumulative increases or reductions, and the estimated fund balance or deficit in the ensuing biennium and in each of the two fiscal years of the biennium as a result of such proposed changes. Proposals for changes in the existing tax and non-tax rates, sources or structure shall be made in every case where the proposed, total State expenditures exceed the total State resources anticipated from existing tax and non-tax sources at existing rates.

Such financial summaries shall be prepared for the total State expenditures and resources and for the general fund and special fund portions thereof.

- (2) A summary of the balances of each special fund, actual for the last completed fiscal year and estimated for the fiscal year in progress and for each of the two fiscal years in the ensuing biennium.
- (3) A summary of the State's total bond fund required to carry out the recommended programs and the kinds of bonds and amounts thereof through which such requirements are to be met in the biennium in progress and in each of the two fiscal years in the ensuing biennium. The summary shall detail for the biennium in progress and for each of the two years of the ensuing biennium:

- (A) Of the total requirements, the amount, by cost categories, requir-

ing new bond issuance authorization and the kinds and amounts of bonds planned for issuance under such new authorization.

- (B) By bond categories, the total, cumulative balance of bonds authorized in prior years but unissued and the amount thereof planned to be issued.
- (C) A recapitulation of the total bonds, both new authorizations and prior authorizations, by bond categories, proposed to be issued.
- (4) A tentative schedule by quarter and fiscal year of the amount of general obligation bonds and the amount of revenue bonds proposed to be issued in the ensuing fiscal biennium.
- (5) A schedule of projected debt service charges for general obligation bonds outstanding at the time of the submission of the budget and to be issued by the close of the budget biennium in progress and the close of the ensuing budget biennium. The projection shall be separately stated for:
 - (A) Bonds currently outstanding.
 - (B) Bonds to be issued during the remainder of the fiscal biennium in progress and during the ensuing fiscal biennium.
 - (C) The total bonds currently outstanding and to be issued.

In each case, the projection shall be categorized into debt service to be paid directly from the general fund, debt service to be paid through reimbursements, and total debt service. The projection shall extend at least five years beyond the close of the ensuing fiscal biennium. An explanation shall be appended to the schedule, which shall include among other things, the amount of bonds to be issued during the fiscal year in progress and in each of the two fiscal years of the ensuing biennium, the maturities of the bonds to be issued, the method of retirement, and the interest rate assumed in the projection.

- (6) A schedule of the current State funded debt, legal debt limit and the legal debt margin, including the details thereof.
- (7) Separately for general fund tax revenues, special fund tax revenues, general fund non-tax revenues and special fund non-tax revenues.
 - (A) By kinds of taxes or sources, the amount of revenue from existing, authorized taxes or sources at existing rates received in the last completed fiscal year and estimated to be received in the fiscal year in progress and in each of the two fiscal years in the ensuing biennium, with appropriate totals for the two bienniums.
 - (B) A summary of the proposed changes in the existing taxes or sources or rates, and the estimated increases or reductions in revenues in each of the two years in the ensuing fiscal biennium resulting from such changes.

(C) The total estimated revenues with and without the proposed changes.

(e) The proposed budget shall include such other financial statements, information and data which in the opinion of the governor are necessary or desirable in order to make known in all practical detail the programs, program plans, and financial conditions of the State.

(f) The proposed budget shall contain an item to be known as the "contingent fund," which sum, upon approval by the legislature, shall be available for allocation by the governor during the ensuing fiscal biennium to meet contingencies as they arise.

SECTION 11. Supplemental budget. (a) Not less than twenty days before the legislature convenes in regular session in an even-numbered year, the governor may submit to the legislature a supplemental budget to amend any appropriation for the current fiscal biennium. The supplemental budget shall reflect the changes being proposed in the State's program and financial plan and shall be submitted, as applicable, in the manner provided in section 10.

(b) In each regular session in an even-numbered year, the legislature may amend any appropriation act of the current fiscal biennium or prior fiscal periods.

SECTION 12. Legislative review. The legislature shall consider the governor's proposed program and financial plan and budget; evaluate alternatives to the governor's recommendations; and adopt programs and determine the State budget. It may, from time to time, request the department of budget and finance and any agency to conduct such analysis of programs and finances as will assist in determining the State's program and financial plan and budget.

SECTION 13. Program execution. (a) Except as limited by policy decisions of the governor, appropriations by the legislature, and other provisions of law, the several agencies responsible for administering State programs shall administer their program assignments and shall be responsible for their proper management.

(b) The appropriations by the legislature for a biennium shall be allocated between the two fiscal years of the biennium in the manner provided in the budget or appropriations act and as further prescribed by the director of finance. The amounts allocated for each fiscal year shall be subject to the allotment system prescribed in chapter 37, part II, Hawaii Revised Statutes. Each agency (except the courts), in estimating its quarterly requirements under chapter 37, part II, shall prepare a plan for the fiscal year for the operation of each of the programs it is responsible for administering. The operations plan shall be in such form and content as the department of budget and finance may prescribe. It shall be submitted, together with the estimated quarterly requirements, to the department of budget and finance on such date as the department may prescribe.

(c) The department of budget and finance shall:

(1) Review each operations plan to determine that it is consistent with the policy decisions of the governor and appropriations by the legislature,

that it reflects proper planning and efficient management methods, and that appropriations have been made for the planned purpose and will not be exhausted before the end of the fiscal year.

- (2) Approve the operations plan if satisfied that it meets the requirements under paragraph (1). Otherwise, the department of budget and finance shall require revision of the operations plan in whole or in part.
- (3) Modify or withhold the planned expenditures at any time during the appropriation period if the department of budget and finance finds that such expenditures are greater than those necessary to execute the programs at the level authorized by the governor and the legislature, or that State receipts and surpluses will be insufficient to meet the authorized expenditure levels.

(d) No appropriation transfers or changes between programs or agencies shall be made without legislative authorization. Authorized transfers or changes, when made, shall be reported to the legislature.

(e) The department of budget and finance shall report quarterly to the governor and the legislature on the operations and operations plan of each agency, relating actual accomplishments to those planned and indicating the modifications to the operations plan of any agency for the balance of the fiscal year.

SECTION 14. Variance report. Not later than December 1 of each year, the governor shall submit to the legislature and to each member thereof, a report on program performance for the last completed fiscal year and the fiscal year in progress. In format, the report shall generally follow the fiscal requirements portion of the executive budget or budgets covering the two fiscal years. The report shall include:

(a) At the lowest level of the program structure, for each program contained in the budget finally approved by the legislature for the last completed fiscal year and the fiscal year in progress:

- (1) A comparison, by cost categories, of the budgeted expenditures and the actual expenditures for the last completed fiscal year, and the budgeted expenditures and the estimated expenditures for the fiscal year in progress.
- (2) A comparison, by cost elements, of the budgeted expenditures and positions authorized and the actual expenditures and positions filled in the last completed fiscal year, the budgeted expenditures and the number of positions authorized and the actual expenditures and number of positions filled in the first three months of the fiscal year in progress, and the budgeted expenditures and the number of positions authorized and the estimated expenditures and number of positions expected to be filled in the remaining months of the fiscal year in progress.
- (3) The program size indicators, and a comparison of the program size anticipated and the size actually realized in the last completed fiscal

year and the program size anticipated and the size estimated for the fiscal year in progress.

- (4) The effectiveness measures, and a comparison of the level of effectiveness anticipated and the level actually attained in the last completed fiscal year and the level of effectiveness anticipated and the level estimated for the fiscal year in progress.
- (5) A narrative explanation of the differences in each of the comparisons made in (1), (2), (3) and (4), including an explanation of the basis upon which the original estimates were made and the reasons why such estimates proved accurate or inaccurate, and a statement of what the actual experience portends for the future of the program in terms of costs, size and effectiveness.

Expenditure amounts in the comparisons shall be shown to the nearest thousand dollars.

(b) Appropriate summaries at each level of the State program structure for each major grouping of programs encompassed therein, showing:

- (1) A comparison of the total budgeted expenditure and the total actual expenditure for the last completed fiscal year and the total budgeted expenditure and the total estimated expenditure for the fiscal year in progress. The expenditure amounts shall be shown to the nearest thousand dollars.
- (2) The effectiveness measures, and a comparison of the level of effectiveness anticipated and the level actually attained in the last completed fiscal year and the level of effectiveness anticipated and the level estimated for the fiscal year in progress.
- (3) A narrative explanation summarizing the major reasons for the differences in the comparisons made in (1) and (2).

(c) The administrative improvements made in the preceding year, potential improvements in future years, and suggested changes in legislation or administrative procedures to make further improvements.

SECTION 15. Publication. The State six-year program and financial plan, the budget and the program performance report shall be printed with a reasonable number of copies for public distribution.

SECTION 16. Claims for legislative relief. All claims for refunds, reimbursements, or other payments, authorization for which is sought from the legislature, shall, as a condition to their being considered by the legislature, be filed in quadruplicate with the director of finance at least thirty days prior to the convening of the legislature, together with quadruplicates of all data and documents in support thereof. In the absence of a showing of sufficient reason therefor, failure to comply with this paragraph shall be deemed sufficient cause for refusal of the legislature to consider the claims.

The director shall, immediately upon receipt thereof, refer any claim and data so received by him to the agency concerned, and the agency to which the

reference is made shall immediately investigate the claim, secure in triplicate all available data and documents bearing thereon, and prior to the convening of the legislature refer the same back to the director with its recommendations thereon. The director shall, within five days after the opening of the session, transmit the claims, together with all accompanying data so presented, to the committee on ways and means of the senate and the committee on finance of the house of representatives.

SECTION 17. Schedule of act's implementation. The governor shall submit to the legislature:

(a) At the regular session of 1971, his proposed State budget for the fiscal biennium 1971-1973 in two forms, one as provided in chapter 37, Hawaii Revised Statutes, and another as prescribed in section 10 of this act. He shall also submit the proposed State six-year program and financial plan as prescribed in section 9 of this act.

(b) At the regular session of 1972, the then current State six-year program and financial plan as prescribed in section 9 of this act, and a variance report covering the fiscal year 1971-72 as provided in section 14 of this act.

(c) At the regular session of 1973, and thereafter, his proposed State budget, six-year program and financial plan and variance report as prescribed in this act.

SECTION 18. Amendment and repeal of conflicting laws. All laws and parts of laws heretofore enacted that are in conflict with the provisions of this act are hereby amended to conform herewith. All acts passed during the regular session of 1970, whether enacted before or after the passage of this act, shall be amended to conform to this act, unless such acts specifically provide that this act is being amended. In addition, except to the extent provided in section 17 of this act, part I of chapter 37, Hawaii Revised Statutes, is hereby expressly repealed.

SECTION 19. Severability. If any provision of this act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 20. Effective date. This act shall take effect upon approval.

(Approved June 30, 1970.)

ACT 186

H. B. NO. 1916-70

A Bill for an Act Relating to Merger and Consolidation of Agricultural Cooperative Associations.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 421, Hawaii Revised Statutes, is amended by adding a section to be appropriately numbered and to read as follows:

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“Sec. 421- . Merger and consolidation. Chapter 417, part I, relating to the merger and consolidation of domestic corporations, shall apply to the merger and consolidation of associations formed under this chapter, except that every merger and every consolidation of associations formed under this chapter shall be approved at a meeting duly called and held for the purpose by not less than two-thirds of the voting power of each constituent association voting thereon.”

SECTION 2. Section 417-1, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 417-1 Application of part. This part shall not be applicable to banks as defined in section 403-2, building and loan associations as defined in section 407-2, cooperative association subject to chapter 421, except as provided in section 421- , trust companies as defined by section 406-1, or any corporation engaged in the business of issuing insurance policies for its own account under chapter 431.”

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.
(Approved June 30, 1970.)

ACT 187

S. B. NO. 1131-70

A Bill for an Act Relating to Public Improvements and the Financing Thereof, Making Appropriations for Public Improvements and Plans Related Thereto out of General Revenues, Special Funds, General Obligation and Revenue Bond Funds and Grants; and Providing for the Issuance of General Obligation and Revenue Bonds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The following sums, or so much thereof as shall be sufficient to finance the projects herein contained, are hereby appropriated, or authorized, as the case may be, from monies in the treasury received from general revenues, special funds, general obligation bond funds, harbor revenue bond funds, airport revenue bond funds, university of Hawaii revenue bond funds, Hawaii housing authority bond funds, and grants, to be expended by the department of accounting and general services, unless otherwise specified in the subsection. The governor, in his discretion, is authorized to use either general fund revenues or general obligation bond funds to finance those projects where the method of funding is not designated and the total sum of general obligation bond funds and general fund revenues so used shall not exceed \$172,918,000. The sum of \$2,700,000 cash from general fund revenues shall, however, be used to finance the planning and construction of student dormitories at the university of Hawaii Manoa campus as provided in item E-38 of this section. General obligation bonds may be issued as provided by law to yield the amount that may be necessary to finance projects herein that do not have funding specifi-

* Edited accordingly

cally designated and projects herein which debt service costs are designated to be paid by special funds provided that the sum total of the general fund revenues used and general obligation bonds so issued shall not exceed \$172,918,000. The letter symbols used after the specific project appropriations, if any, indicate the source of financing and shall have the following meaning: (a) general obligation bond funds with debt service costs to be paid from special funds, (s) special funds, (r) revenue bond funds, (FAI) federal aid interstate highway funds, (FAP) federal aid primary highway funds, (FAS) federal aid secondary highway funds, (FAU) federal aid urban highway funds, (f) other federal funds, (x) county funds and (c) cash.

A. DEPARTMENT OF AGRICULTURE

Oahu

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| 1. Animal Quarantine Station, Halawa, Oahu—Plans for Animal Industry Laboratory-Office Building. Plans and construction of additional kennels. | 1,304,000 |
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Maui

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| 2. Vacuum Cooling Plant, Maui—Site preparation, paving including improvements to reefer and equipment and other improvements. | 25,000 |
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Hawaii

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| 3. Vacuum Cooling Plant, Kamuela, Hawaii—Rehabilitation and enlargement of existing vacuum cooling plant and storage facilities. | 18,000 |
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B. DEPARTMENT OF LAND AND NATURAL RESOURCES

(To be expended by the Department of Land and Natural Resources)

Statewide

State Parks

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| 1. Archaeological and Historic Preservation, Statewide—Incremental development of comprehensive statewide historic preservation survey and plan and incremental research, acquisition, preservation, restoration, development and interpretation of Hawaii's historic places, structures and objects. | 259,000 |
| 2. State Underwater Parks, Statewide—Plans and construction of underwater parks at Hanauma Bay and Kealahou Bay. | 150,000 |

Oahu

Land Development

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| 3. Land Acquisition, Oahu—For the acquisition of privately owned or other lands to be applied towards the acquisition of 57.03 acres of federally owned land at Fort Ruger by exchange or otherwise, and the improvement of said lands for exchange; provided that if the acquisition of said 57.03 acres involves the exchange of more than 225 acres of land and the State exchanges lands as defined in the last paragraph of Section 205-2, Hawaii Revised Statutes, the State shall include in the exchange deed a covenant running with the land which will mandate that the grantee use not more than 225 acres for | 5,000,000 |
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the purposes of the exchange and any balance of acreage shall only be used for the purposes as defined in the last paragraph of Section 205-2, Hawaii Revised Statutes.

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| 4. Food Distribution Center, Oahu—Plans for development of State land into second increment of a food distribution center complex. | 60,000 |
| 5. Kawaihoa, Oahu—Funds to provide off-highway parking in the Laniakea area. | 20,000 |

Fish and Game

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| 6. Keehi Fishery Station, Oahu—Construction of a building and renovation of an existing building, including landscaping. | 140,000 |
| 7. Honolulu Game Management Facilities, Oahu—Construction of paved parking area at Makiki warehouse-workshop site, and clearing and planting at Kuaokala. | 2,000 |
| 8. Paiko Lagoon Park and Bird Sanctuary, Oahu. | 10,000 |

State Parks

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| 9. Kahana Valley State Park, Koolauloa, Oahu—Incremental development of major park with beach facilities, historic restoration, water features, botanical gardens, picnic areas, campground, hiking and other improvements. | 40,000 |
| 10. Makua-Kaena Point State Park, Oahu—Incremental land acquisition and plans for development of major park of important scenic and recreational values. | 525,000 |
| 11. Plans for comprehensive park systems in the Manoa, Moiliili, McCully areas, including a linear park and mini parks, Oahu. | 10,000 |
| 12. Waahila Park, Oahu—Construction of park facilities. | 100,000 |

Maui

Fish and Game

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| 13. Management and Enforcement Facilities, Maui—Incremental construction of game water units, signs and markers and thinings and clearings on Maui, Lanai and Molokai. | 8,000 |
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Forestry

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| 14. Polipoli Recreation Area Development, Maui—Incremental construction of 6.2 miles of trail, 3 hikers shelters, and sheltered viewpoint with picnic area. | 6,000 |
| 15. Kuhiwa Valley Truck Road, Maui—Bulldoze and gravel 2 3/4 miles of low-standard truck road. | 41,000 |
| 16. Relocation Study of the DLNR Baseyard, Maui—A study by DOWALD to determine the most suitable location and cost at Kahului. | 5,000 |
| 17. Upper Waiakoa Trail, Maui—Construct 8 miles of hiking trail in Kula Forest Reserve. | 6,000 |
| 18. Puu Puou Road, Maui—Plans for a low-standard truck road (3 miles) in Hana Forest Reserve. | 3,000 |

State Parks

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| 19. Waianapanapa Caves State Park, Hana, Maui—Incremental development of major park with outstanding scenic and historic values, including picnic areas, campground and low cost vacation facilities. | 110,000 |
| 20. Palaaui State Park, Molokai—Incremental development of major scenic park, including picnic areas, camping, and low cost vacation facilities. | 125,000 |

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| 21. Maalaea-Kaanapali Wayside Park, Maui—Incremental development of wayside park areas, and beautification for scenic highway. | 25,000 |
| 22. Waikeolu Wayside State Park, Phase II, Maui—Plans and construction of second phase of park and parking facilities. | 25,000 |

Water Development

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| 23. West Maui Water Project, Maui—Exploration development and transmission of ground water from valleys of the West Maui Mountains to meet the growing demands of the area. This will involve the drilling of exploratory wells and developing them into production wells, the construction of pipelines, pumps, control buildings, reservoirs, and power lines. | 917,000 |
| 24. Molokai Water Project, Phase II, Molokai—Development of additional water from the Waikolu Valley and the Pelekunu Valley by constructing facilities such as wells, pumps, a 16,500 foot tunnel, diversion works, storage reservoir and pipelines to satisfy demands over and above the original demand envisioned for the project. | 362,000 |
| 25. Central Maui Water Source Development, Maui—Exploration and development of ground water in the Central Maui area to supplement the present source of the Wailuku-Kahului Water System and Kihei Water System which will experience heavy demands when the proposed development in the Kihei-Wailea area becomes a reality. | 150,000 |

Hawaii

Land Development

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| 26. Puna Farm Lots, Hawaii—Plans for development of State lands in Puna for farm lots. | 15,000 |
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Fish and Game

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| 27. Hawaii Game Management Facilities, Hawaii—Incremental development of game management facilities, including construction of access roads, water units, game range improvements, signs and markers and water tanks. | 13,000 |
| 28. Birds and Marine Species, Hawaii—To release birds and marine species. | 15,000 |

Forestry

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| 29. Forest Development and Timber Access Roads, Hawaii—Improvement of secondary roads at Waiakea Homestead Area, Laupahoehoe Section of Hilo Forest Reserve, and Waiakea Reforestation Area. | 58,000 |
| 30. Fences-Forest Boundary and Pasture, Hawaii—Installation of fence in the Hilo Forest Reserve-Humuula Section. | 4,000 |

State Parks

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| 31. Hapuna Beach State Park, South Kohala, Hawaii—Incremental acquisition of inholdings and development of major park on Hapuna and Wailea beaches, to include paved roads, parking and walks, extensive beach, picnic areas, campground and low cost vacation facilities with extensive landscaping and utilities. | 360,000 |
| 32. Wailuku River State Recreation Area, South Hilo, Hawaii—Incremental development of Rainbow Falls and Boiling Pots areas as interpreted scenic viewpoints, followed by acquisition and developments of stream-side park. Includes paved roads, | 105,000 |

- parking areas, and walks, utilities, trails, landscape planting, and appurtenances.
33. Lapakahi and Other Projects, Hawaii—For archaeological investigation of Lapakahi Coastal and upland village, and other projects. 24,000
 34. Wailoa State Park, Hawaii—For plans, construction of foot paths, lighting, covered shelter, and other facilities and appurtenances. 25,000
 35. Kalapana and Kaimu Beach Development, Hawaii—Incremental expansion of facilities and landscaping for further development including acquisition of lands. 100,000
 36. Archaeological and Historic Site Preservation and Park Development—Plans and incremental research, acquisition, preservation, restoration, development and develop new park site jointly with State and County. 100,000
 37. Kalopa State Park, Hamakua, Hawaii—Construction for Unit II, Kalopa Park Development, for camp grounds, vacation cabins and caretaker's cabin, also roads to park. 50,000

Water Development

38. Honokohau Water Project, Hawaii—Incremental plans and construction to develop and transmit additional water to serve the marina, the proposed airport and resort development in the Kailua-Honokohau-Keahole area by constructing a development shaft, additional wells and pumps, pipelines, booster pumps, and reservoirs. 480,000
39. South Kohala and Hamakua Water Project, Hawaii—Incremental plans and construction of a water system to develop and utilize water from the South Kohala Mountains and basal ground water to serve the growing needs in the Kawaihae, Puako and Hamakua areas. 900,000
40. North Kona Water System, Hawaii—Extension of water main on Mamalahoa Highway from Palani Road injunction toward Kalaoa, including booster pumps, storage tanks, necessary appurtenances. Supplements to prior appropriations. 300,000

**ITEMS B-41 THROUGH B-47 TO BE EXPENDED BY
THE HAWAII COUNTY BOARD OF WATER SUPPLY.**

41. South Kona Water System, Hawaii—Extension of 8-inch water main from Hookena School to Kookena Beach Road junction. Supplements to prior appropriations. 50,000
42. Naalehu Water System, Hawaii—Improvements to the existing water system (Waiohinu-Naalehu) in Kau, Hawaii, including source exploration, planning, development, and construction of storage and transmission facilities. Supplements to prior appropriations. 300,000
43. Volcano Water System, Hawaii—Plans and construction for water system, including sources and development - pipelines, wells, tanks, and land acquisition and other related appurtenances. 300,000
44. Kehena Ditch Water Source, North Kohala, Hawaii—Development of the Kehena Ditch water source including preparation of plans and construction of diversion works, pipeline, storage reservoir, and other appurtenances. 200,000
45. Water Development and Improvement to water system, North Kohala, Hawaii—to be supplemented by Item B-53, Act 155, Session Laws of Hawaii 1969. 85,000

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| 46. Hamakua Water System, Hawaii—Including improvements, extension, appurtenances for Laupahoehoe, Honokaa, Kuku-ihaele, Paaulo and Ninole water systems. | 200,000 |
| 47. Kalapana Water System Phase III, Hawaii—Extension of water transmission line on main government road from the vicinity of Harry K. Brown Park to Wahaula Visitor Center. (Board of Water Supply to work jointly with Hawaii Volcanoes National Park Service to service visitor center at Wahaula). | 265,000 |

Kauai

Land Development

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| 48. Nawiliwili Coral Fills, Kauai—Plans and construction of roads and water lines and other improvements necessary for the development of an industrial subdivision. Supplement prior appropriation. | 75,000 |
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Forestry

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| 49. Forest Development-Trail shelter, Kauai—Incremental construction of 25 shelters for wildland picnic and overnight trail stops. | 8,000 |
| 50. Forest Development-Trails, Kauai—Incremental construction of trails for various forest reserves to provide quick access to forest planting areas, forest fire protection and outdoor recreation sites. | 15,000 |
| 51. Forest Development-Roads, Kauai—Incremental construction of 7 miles of dirt roads in the Puu Ka Pele, Wailua, and Hanalei Forest Management Areas. | 30,000 |

State Parks

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| 52. Haena State Park, Hanalei, Kauai—Incremental acquisition of lands westward of Limahuli Stream and contiguous to state lands of Hanakapiai. | 300,000 |
| 53. Russian Fort State Monument, Waimea, Kauai—Acquisition and incremental planning, research and restoration of a historic site, including archaeologic and historic research and reconstruction. | 125,000 |
| 54. Wahiawa Mauka State Recreation Area, Kauai—Incremental development of wooded uplands for low cost vacation accommodations, camping, and picnic areas, including access roads, utilities and facilities. | 140,000 |
| 55. Kokee-Na Pali State Park Complex, Kauai—Incremental construction of a road, Kokee to Hanalei-Wainiha, using State Parks equipment and labor. | 200,000 |
| 56. Wailua River State Park, Kauai—Installation of exhaust fans, construction of canopy at open lanai and walkways, construction of boat landing, new comfort station and waterline, and other improvements at Lydgate Park. | 94,000 |
| 57. Kokee-Kalalau Road, Kauai—Resurfacing and improvement of shoulders from Halemanu Valley to 150 AC & W Squadron Air National Guard site. | 100,500 |

Water Development

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| 58. Wailua-Kapaa Water System, Kauai—Development of additional ground water and increasing the capacity of the transmission main for the Wailua-Kapaa Water System. The project will consist of constructing wells, pumps, pipelines, and | 810,000 |
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- reservoirs to serve the increasing number of resort hotels being built in the Wailua-Kapaa area.
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| 59. Kekaha Water System, Kauai—Incremental development of water source and construction of facilities for the Kekaha Water System to serve the proposed commercial, multi-family and single residential subdivision on State lands in Kekaha. The project consists of constructing wells, pumps, pipelines, and reservoirs. | 350,000 |
| 60. Kilauea Water System, Kauai—Incremental development of water sources and construction of facilities for the Kilauea Water System, Kilauea, Kauai. | 300,000 |
| 61. Water Project - Hanalei District, Kauai—Repair and clear irrigation ditches, using present staff, summer student help, unemployed personnel from the Kilauea Sugar Company, Ltd., and temporary personnel who shall be exempted from the provisions of chapters 76 and 77, Hawaii Revised Statutes, and who are unemployed with the department of labor and industrial relations, to the maximum practical extent. The board of land and natural resources may, upon approval of the governor, enter into contracts for the necessary equipment, supplies, materials, labor, professional, and technical assistance to be used in the project by negotiations. | 50,000 |
| 62. Sewer System, Kauai—Plans and construction for sewer systems at Kapaa, Waimea, Koloa, Hanapepe, and Hanalei. | 700,000 |

C. DEPARTMENT OF TRANSPORTATION

(To be expended by the Department of Transportation)

Statewide

Airports

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| 1. Statewide Airport Planning—Airport studies, research, and advance planning of airfield and terminal facilities. | 150,000s |
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Harbors - Commercial

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| 2. Statewide Harbor Planning, Statewide—Continuing harbor studies, research and advance planning of harbor and terminal facilities on all islands. | 40,000s |
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Harbors - Small Boat

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| 3. Improvements to Boating Facilities, Statewide—Improvements to statewide boat harbors, boat launching facilities and boat refuge areas, including studies of possible new sites. | 35,000 |
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Highways

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| 4. Highway Route Planning, Traffic, Finance, Road Use, Road Life, and Economic Studies, Statewide—Highway studies and research and advance planning of Federal-Aid Highway projects required to qualify the State to receive Federal-Aid on specific projects. | 380,000a
656,000FAI
93,000FAP
33,000FAS
18,000FAU |
| 5. Miscellaneous Improvements to Existing Intersections and Highway Facilities, Statewide. | 100,000
200,000a
60,000FAP |
| 6. Miscellaneous Drainage Improvements to Existing Highway Facilities, Statewide. | 100,000
100,000a |

Oahu**Airports**

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| 7. Honolulu International Airport, Oahu—Construction of foreign arrivals inspection facilities, extension of elevated roadway, vehicle ramps, air cargo terminal and ramp, furniture, landscaping and other improvements. First phase construction of Runway 8R-26L (Reef Runway), site preparation, coral fill and drainage facilities. | 10,600,000a
30,305,000r
1,000,000f |
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Harbors - Commercial

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| 8. Incremental Acquisition of Private Properties and Facilities, Honolulu Harbor, Oahu. | 4,797,000 |
| 9. Addition, Reconstruction, Relocation and Improvement of Recently Acquired Honolulu Harbor Facilities, Oahu. | 383,000r
42,000s |
| 10. Miscellaneous Improvements to Existing Pier Facilities, Honolulu Harbor, Oahu. | 35,000s |
| 11. Piers 5-12 Improvements and Renovations, Honolulu Harbor, Oahu—Development of Pier 5-12 complex, including Pier 11 building, reconstruction of Piers 8-11, improvements to Pier 5-12 and other improvements. Unexpended funds from Act 52, SLH 1964, Item B-2-d may be used to supplement this appropriation. | 474,000s |
| 12. Harbor Division Baseyard, Oahu—Supplement prior appropriations for construction of new baseyard facilities, including shop building, covered pier and storage, paving, fencing, and other improvements. | 150,000s |

Harbors - Small Boat

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| 13. Kaneohe Bay, Oahu—Long range planning of recreational development at Kaneohe Bay for soils and coral analyses, preparation of detailed study for reclamation of shoreline areas, development of land use patterns and development plans. Appropriation from Act 155, SLH 1969, Item C-19 may be used to supplement this appropriation. | 500,000 |
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Highways

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| 14. Moanalua Road Improvements - Aiea toward Middle Street, Oahu—Improvement of existing four-lane divided highway from Aiea to Middle Street. | 4,200,000a
3,400,000FAP |
| 15. Interstate Route H-1 - Middle Street Separation to Old Waialae Road, Oahu—Safety improvements along existing Lunalilo Freeway from Middle Street Separation to Old Waialae Road. | 50,000a
150,000FAI |
| 16. Interstate Route H-1 - West of Waiau to East of Halawa, Oahu—Construction of eight-lane divided highway, including the Waiau and Halawa Interchanges, from west of the Waiau Interchange to east of the Halawa Interchange. | 1,713,000a
9,693,000FAI |
| 17. Interstate Route H-1 - East of Halawa Interchange to Middle Street Separation, Oahu—Incremental construction of 8 freeway lanes, including the Pearl Harbor, Airport, and Keehi Interchanges. | 4,000,000a
22,600,000FAI |
| 18. Interstate Route H-1 - Eastbound On-Ramp at Kapiolani Interchange, Oahu—Construction of an on-ramp to H-1 Eastbound at the Kapiolani Interchange. | 270,000a
1,515,000FAI |
| 19. Interstate Route H-3 - Junction at H-1 to Kaneohe Marine Corps Air Station, Oahu—Incremental construction of divided highway from junction at H-1 to Kaneohe Marine Corps Air Station. | 1,000,000a
6,666,000FAI |

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20. Mokapu Saddle Road, Oahu—Supplemental construction of four-lane divided highway from Kaneohe Bay Drive to existing Mokapu Boulevard.	952,000a 779,000FAS
21. Farrington Highway Improvements - Piliokoe Gulch towards Mokuleia, Oahu—Incremental construction of the primary route from Piliokoe Gulch towards Mokuleia.	3,300,000
22. Kamehameha Highway - Wahiawa Town Section, Oahu—Incremental widening of Kamehameha Highway from Wilson Bridge to Kilani Avenue and improvement of the drainage system (includes new Wilson Bridge and replacement of existing Wilson Bridge).	1,074,000a 879,000FAP
23. Liliha Street Widening, Oahu—Plans for widening of Liliha Street from H-1 to King Street.	60,000a 40,000FAU
24. Nimitz Highway - Kakaako Street to Richards Street, Oahu—Plans for a divided highway from Kakaako Street to Richards Street.	20,000a 10,000FAU
25. Reconstruction of Kinau Street from Alapai Street to Makiki Street, Oahu.	280,000 280,000x
26. Improvements to Materials Testing and Research Laboratory Site and Facility, Oahu.	60,000
27. Hauula Baseyard Facility, Oahu—Demolishing of existing shed and construction of a new baseyard.	14,000
28. Kaneohe Baseyard Facility, Oahu—Construction of a new baseyard.	10,000
29. Oahu District Baseyard Maintenance Buildings, Oahu—Construction of a maintenance building, a sign shop, a welding and machine shop, concrete rock bins, and other related improvements.	160,000
30. Kalanianaʻole Highway, Oahu—May Way to Hawaii Kai Drive. Widen existing two lane and three lane highway to a four lane highway.	100,000
31. Kalanianaʻole Highway, Oahu—Hawaii Kai Drive to Lunalilo Home Road. Plans and construction for widening of existing highway.	70,000
32. Kalanianaʻole Highway, Oahu—Aina Haina to May Way. Plans and construction to widen existing highway to six lanes of divided highway.	200,000
33. Installation of traffic lights at intersection of Kaua Street and Ala Mahamoe.	25,000
34. Kalanianaʻole Highway, Oahu—Improvement of highway, Saddle City towards Waimanalo.	200,000a
35. Pedestrian Overpass at Pali Highway, Oahu—Planning and construction of pedestrian overpass at Pali Highway, vicinity of Country Club Road and Puiwa Road.	150,000
36. Land Acquisition at Pua Lane for pedestrian overpass, Oahu.	15,000
37. Pedestrian Overpass over Vineyard Boulevard, Oahu—Plans and construction of a pedestrian overpass to be located between Liliha and Aala Streets.	120,000
38. Likelike Highway Improvements, Oahu—Replacement of wood guardrails with metal guardrails on Likelike Highway from Anoi Road to Kamehameha Highway.	11,000
39. Likelike Highway Improvements, Oahu—Replacement of wood guardrails with metal guardrails on Likelike Highway from Wilson Tunnel to Anoi Road.	54,000
40. Sidewalk on road shoulder improvements—Kalanianaʻole Highway in Waimanalo.	50,000

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| 41. Construction of foot bridges, Oahu—Kam Highway at Wai-
hee, Waiahole and Kahana Streams. | 42,000 |
| 42. Street lights for Kamehameha Highway, Oahu—between
Waikane and Kualoa Point. | 25,000 |

Maui

Airports

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| 43. Kahului Airport, Maui—Reconstruction of Runway 2-20 and
parallel taxiway, installation of high intensity runway lights,
and medium intensity taxiway lights, marking, and other mis-
cellaneous airfield improvements. | 5,420,000r
310,000s |
| 44. Molokai Airport, Molokai—Clearing and grading of airfield
for improvements to drainage. Resurfacing of access road and
parking lot. Expansion of apron. Other miscellaneous im-
provements. | 210,000s |
| 45. Lanai Airport, Lanai—Construction of terminal extension for
baggage claim area and covered walkway. Sealcoating of run-
way, taxiway and apron pavement and other improvements. | 117,000s |
| 46. Lanai Airport, Lanai—Plans to construct 2000' minimum ex-
tension to existing runway, strengthen existing runway, ex-
pand and reconstruct apron. | 270,000r |

Harbors - Small Boat

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| 47. New Lahaina Boat Harbor, Lahaina, Maui—Construction of
new marina between extension of Papalaua Street and La-
hainaluna Street and possible inclusion of an interim ferry
terminal in the incremental construction of the marina. Unex-
pended funds from Act 195, SLH 1965, Item E-21; ACT 217,
SLH 1967, Item C-40 and Act 155, SLH 1969, Item C-57 may
be used to supplement this appropriation. | 880,000 |
| 48. Maalaea Small Boat Harbor, Maui—Construction of a mar-
ginal wharf extension and related improvements. | 90,000 |
| 49. Lanai Boat Harbor Improvements, Lanai—Improvements to
Lanai Boat Harbor, including dredging, constructing bulk-
heads, comfort station, service dock, pavilion, launching
ramp, additional catwalks; grading and paving; navigational
aids; landscaping and other improvements. | 50,000 |

Highways

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| 50. Kahului Airport - Maalaea Highway, Maui—Construction of
two-lane highway from Honoapiilani Highway near Maalaea
to Hana Highway near Kahului. | 740,000a
504,000FAS |
| 51. Honoapiilani Highway, Maui—Land acquisition, plans, and
construction of improvement to Honoapiilani Highway in the
vicinity of the Kihei Road and the new Wailuku By-pass
Route intersection. | 276,000a
224,000FAP |
| 52. Honoapiilani Highway and Lahainaluna Road, Maui—Instal-
lation of traffic lights and improvement of intersection. | 40,000 |
| 53. Kaahumanu Avenue Traffic Signals, Maui—Installation of
interconnecting traffic signal lights at three intersections on
Kaahumanu Avenue. | 275,000 |
| 54. Kamehameha V Highway - Culvert at Kaunakakai Stream,
Molokai—Installation of culverts on Kamehameha V High-
way at the Kaunakakai Stream crossing. | 75,000 |
| 55. Drainage Improvement on Honoapiilani Highway at Olo-
walu, Maui—Culvert improvements on Honoapiilani High-
way at Olowalu. | 45,000 |

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56. Resurfacing of FAP Route 30 and 32, Wailuku Section, Maui—Resurfacing of critical locations of highway from Waikapu to Kaahumanu Avenue.	50,000
57. Pohakuokala and Waiale Bridges - Haleakala Highway, Maui—Construction of the Pohakuokala and Waiale Bridges on Haleakala Highway.	118,000
58. Kahekili Highway - Waihee to Honokohau, Maui—Plans and incremental construction of Kahekili Highway, Waihee to Honokohau.	150,000
59. Kamehameha V Highway, Molokai—Incremental improvements to Kamehameha V Highway from the end of present paved highway towards Halawa.	100,000
60. Honoapiilani Highway - Waikeolu, Maui—Construction of guardrails.	12,000
61. Kaahumanu Highway Sidewalk, Maui—Construction of a sidewalk on makai side of Kaahumanu Avenue from intersection of Beach Road to Puunene Avenue to Kahului.	25,000
62. Kaahumanu Avenue Over-pass Study, Maui—Feasibility study for the construction of an over-pass and use-study of Maui War Memorial facilities.	50,000
63. Haleakala Highway - Airport Junction to Kula Highway Widening, Maui—Realigning and reconstruction of approximately 7.7 miles of existing road from Kahului Airport Junction on Hana Highway to its junction with Kula Highway at Pukalani. (To supplement prior appropriation.)	385,000
64. Hana Highway - Honomanu to Kaeleku, Maui—Incremental widening, reshaping and paving of existing highway.	50,000
65. Kula Highway - Ulupalakua to Keokea, Maui—Land acquisition and plans for approximately 5.5 miles of two-lane highway from Ulupalakua to Keokea.	75,000
66. Lanai Airport Road, Lanai—Improvements to Lanai Airport Road from Kaumalapau Highway.	50,000
67. Manele Road, Lanai—Incremental widening, realigning and paving of existing highway. Funds from private and other governmental sources, if available, may be used to supplement this appropriation.	50,000
68. Kalaupapa Lookout Road, Molokai—To supplement prior appropriations.	100,000a 90,000FAS
69. Hana Belt Road, Lower Paia Section, Maui—To supplement prior appropriations.	270,000a 219,000FAP

Hawaii

Airports

70. General Lyman Field, Hawaii—Construction of access roadway, lighting, utilities, relocation of National Guard facilities, land acquisition, alterations to cargo building, loading devices for overseas terminal, furniture, fuel system, and other miscellaneous improvements.	2,568,000r 632,000s
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Harbors - Small Boat

71. Honokohau Boat Harbor, Kona, Hawaii—Incremental dredging of remaining harbor basin and other improvements.	1,190,000
72. Reeds Bay Boat Harbor, Hilo, Hawaii—Plans and studies for a boat harbor in Hilo Bay.	40,000
73. Wailoa Estuary and River Basin, Hilo, Hawaii—For improve-	50,000

ment of banks, bulkheads, boat mooring, and other facilities, including restroom facilities.

Highways

74. Volcano Road, Hawaii—Supplementary appropriation for the construction of highway between the 29-Mile Post and the 26-Mile Post.	350,000
75. Kanoelehua Avenue - Makalika Street to Kamehameha Avenue, Hawaii—Construction of four-lane highway utilizing the present two-lane highway and constructing an additional two-lane highway on a parallel alignment from Makalika Street to Kamehameha Avenue. Existing two-lane highway to be resurfaced with asphalt concrete.	647,000a 529,000FAP
76. Kailua-Kawaihae Road, Hawaii—Incremental construction of two-lane roadway, supplementing prior appropriations for Kailua-Kawaihae Road project.	1,350,000
77. Drainage Improvement Projects at Kona and Kohala, Hawaii—Installation of culverts, construction of drainage channel, and other related improvements.	157,000
78. Shoulder Stabilization at Various Locations, Hawaii—Stabilization of shoulders and installation of raised pavement markers along three sections of the Hawaii Belt Road.	174,000
79. Hawaii Belt Road Safety Improvements from Honaunau to Milolii, Hawaii.	100,000
80. Mauna Kea Summit Road - Construction of a two-lane highway from the Saddle Road in vicinity of Puu Huluhulu to the summit by way of Hale Pohaku.	2,123,000 175,000x
81. Honokaa-Waipio-Mudlane Road, Hawaii—To supplement Item C-86, Act 155, SLH 1969, to complete land acquisition, realignment, grading, drainage and construction of the Honokaa-Waipio-Mudlane Road; including utilities. The amount previously appropriated shall also be expended to include utilities, waterlines and other necessary related matters for the completion of the Honokaa-Waipio-Mudlane Road.	300,000
82. Improvements to the Kapaau-Hawi Road, North Kohala, Hawaii—Install safety rails or a chain-link fence along the top of the existing wall at the Kapaau-Hawi Road, and cut a slope along the Kapaau-Hawi Road within the highway right-of-way.	4,000
83. Kohala Mountain Road, North Kohala, Hawaii—Paving, straightening and widening of the existing Kohala Mountain Road.	75,000
84. Honokaa Baseyard, Hawaii—To construct new baseyard and related facilities. Notwithstanding the express provisions of the authorizations for the Honokaa Baseyard contained in (1) Item IV-B-14 of Section 1, Act 38, Session Laws of Hawaii 1966, and (2) Item C-115 of Section 1, Act 217, Session Laws of Hawaii 1967, the Department of Transportation may expend the funds appropriated thereby to supplement this appropriation.	25,000
85. Safety Lights at the Kapehu Bridge, District of North Hilo, and the Kealakaha Bridge, Hamakua, Hawaii.	4,000
86. Shoulder Stabilization, Puna, Hawaii—Stabilization of shoulder, also to provide addition and replacement of lights and safety blinkers near school crosswalk.	50,000
87. Improvement of Hawaii Belt Road, Kau, Hawaii—Plans for the realignment of the Hawaii Belt Road from Naalehu to Ocean View Estates. (This appropriation may be used for the	190,000

- improvement of the existing road if deemed more urgent by the director of transportation).
88. Hawaii Belt Road at Kaawalii Gulch, Hawaii—Plans to extend the three lanes on the Hawaii Belt Road at Kaawalii Gulch to vicinity of the cemetery above Ookala. 10,000

Kauai

Airports

89. Lihue Airport, Kauai—Miscellaneous improvements to airfield and terminal; expansion of apron and other improvements. 415,000s

Harbors - Small Boat

90. Port Allen Boat Harbor Improvements, Kauai—Construction of marginal wharf along existing breakwater, extension of roadway and utilities and other improvements. Supplement prior appropriation. 175,000
91. Kukuiula Small Boat Harbor, Kauai—Plans, land acquisition, reconstruction of launching ramp, and construction of other improvements. Supplement prior appropriation. 78,000
92. Nawiliwili Small Boat Harbor, Kauai—Dredging entrance channel and portion of berthing area, construction of revetted dike mole, bulkhead wall, and other improvements. Supplement prior appropriation. 320,000
32,000f
93. Waimea Pier - Waimea, Kauai—Reconstruction and restoration of the Waimea Pier, Waimea, Kauai. 50,000

Highways

94. Kauai Belt Road - Kapaa Town Section, Kauai—Construction of highway from Waikaea Canal to Kawaihau Road, including parking strips, curbing, sidewalks, and landscaping. 415,000a
339,000FA P
95. Nawiliwili Road Reconstruction, Kauai—Plans and reconstruction of the existing pavement and stabilization of both shoulders. 75,000
96. Safety Improvements - Kaumualii Highway-West of Huleia Bridge, Kauai—Construction of safety improvements on Kaumualii Highway in the vicinity of Huleia Bridge. Improvements to include the widening and stabilization of shoulders, construction of concrete gutters, and installation of reflectors. 93,000
97. Kauai Belt Road - Hanalei to Kalihiwai, Kauai—Land acquisition for highway between Hanalei and Kalihiwai. 40,000a
30,000FA P
98. Kauai Belt Road - Hanalei Town Section, Kauai—Land acquisition for highway between Hanalei Bridge and Waioli Stream Bridge. 165,000a
135,000FA P
99. Kauai Belt Road - Wainiha to Lumahai, Kauai—Incremental construction of roadway from the intersection of Wainiha Power House Road and Kuhio Highway towards Lumahai Bridge, including two bridges, one box culvert and landscaping. 630,000a
516,000FA P
100. Lawai-Kalaheo Scenic Road, Kauai—Construction of approximately 3.2 miles of highway, including landscaping and one bridge from Spouting Horn towards Kukuilono Park. 300,000
101. Motor Vehicle Testing and Recreational Facilities, Kauai—To supplement prior appropriations. 300,000
102. Kauai Belt Road, Kalihiwai to Princeville, Kauai—Recon- 73,000

struct approximately 1.92 miles of existing roadway.

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| 103. Kauai Belt Road, Princeville to Hanalei Town, Kauai—Reconstruct approximately 1.94 miles of existing roadway. | 77,000 |
| 104. Kauai Belt Road, Lumahai to Power House Road, Kauai—Reconstruct approximately 0.72 miles of existing roadway. | 26,000 |
| 105. Princeville Road, Wailua, Kauai—Rehabilitation and improvement of existing roadway. | 25,000 |
| 106. Wailua Falls Loop Road, Kauai—Incremental improvement of roadway on existing or new alignment. | 100,000 |
| 107. Barking Sand Road, Kauai—Construction of a paved road from Mana to Barking Sand. | 115,000 |

D. DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

(To be expended by the Department of Planning and Economic Development)

Statewide

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| 1. Comprehensive Development Planning, Statewide—Continuing investigation, research, updating, and coordination of statewide development plans, community development programs, and planning projects to implement major recommendations of General Plan Revision Program and to assist County planning programs. May be matched or augmented by Federal funds as available. | 150,000 |
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Oahu

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| 2. Foreign Trade Zone No. 9, Oahu—Expansion of Foreign Trade Zone NO. 9 operations office, renovation of Waikiki Wing at Pier 39, and other related zone improvements at Pier 39 and Anuenue. Funds to be supplemented by Item D-1 of Act 217, SLH 1967. | 1,000 |
| 3. International Trade and Conference Center, Oahu—Developmental plans for an International Trade and Conference Center, including market demand analysis, site planning and design, cost, and sources of funds determination. | 100,000 |
| 4. Oceanographic Research Park, Oahu—Developmental plans for an oceanographic research park(s), including market demand analysis, site planning and design, cost, and source of funds determination. | 100,000 |

Hawaii

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| 5. Preparation of a Master Plan for Laupahoehoe Area, Hawaii, including Ninole, Hakalau, Ookala, Hawaii—The Master Plan shall provide for community center, housing, utilities, recreation, roads, land use, school facilities and other related matters. Appropriation may be used for beginning work. | 10,000 |
| 6. Implementing Hamakua Community Master Plan, Hawaii—The Master Plan shall be implemented in increments and shall provide for plans and construction of roads, utilities, recreational facilities, drainage and flood control program, hospital, and other related improvements. | 50,000 |

E. UNIVERSITY OF HAWAII

Statewide

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| 1. University System Planning, Statewide—Plans and studies to determine the needs for additional campuses, impact studies, evaluation of sites and master planning. Funds to be expended by the University of Hawaii. | 100,000 |
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| 2. General Utilities, Roads, and Site Improvements, Statewide—Incremental planning and construction to implement the Utilities Master Plan. | 750,000 |
| 3. Major C.I.P. Planning, Statewide—Studies, research and planning of major facilities and utilities preparatory to seeking State and/or Federal funds on specific projects. Funds to be expended by the University of Hawaii. | 150,000 |
| 4. Minor C.I.P. Projects, Statewide—Incremental planning, constructing and equipping of minor improvements, including the construction of new facilities as well as modifications to existing structures. | 300,000 |

Oahu

Manoa Campus

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| 5. Business Administration Facilities, Manoa Campus, Oahu—Purchase of furniture and equipment and landscaping. | 494,000 |
| 6. Engineering Facilities, Phase I, Manoa Campus, Oahu—Purchase of furniture and equipment. | 912,000 |
| 7. Physical Sciences Facilities, Manoa Campus, Oahu—Construction and purchase of furniture and equipment and landscaping. | 830,000 |
| 8. Art and Architecture Facilities, Manoa Campus, Oahu—Plans for purchase of furniture and equipment and landscaping. | 15,000 |
| 9. Relocation of Agricultural Engineering Facilities to Mauka Campus, Manoa Campus, Oahu—Purchase of equipment. | 65,000 |
| 10. Social Sciences Facilities, Phase I, Manoa Campus, Oahu—Plans for purchase of furniture and equipment and landscaping. | 20,000 |
| 11. Chemistry Facilities, Phase I, Manoa Campus, Oahu—Completion of construction, landscaping and equipment. | 1,329,000 |
| 12. Hawaii Institute of Geophysics Addition, Manoa Campus, Oahu—Plans for an additional wing to provide space for administrative support facilities and offices for faculty and graduate students. | 15,000 |
| 13. Improvements to Physical Education Facilities, Manoa Campus, Oahu—Incremental planning and construction of improvements to the Makai Campus for the Physical Education program. | 150,000 |
| 14. Leahi Hospital, Oahu—Refurbishing of electrical system. | 350,000 |
| 15. Leahi Hospital Alterations and Additions for the Sections of Tropical Medicine and Medical Microbiology, Oahu—Plans and construction of additional animal facilities and renovation of laboratories. | 141,000 |
| 16. Agricultural Sciences Facilities, Phase I, Manoa Campus, Oahu—Plans for a building containing classrooms, laboratories and offices for the Department of Agricultural Engineering and Entomology. | 366,000 |
| 17. General Instructional and Related Facilities, Phase II, Manoa Campus, Oahu—Supplementary appropriation to complete plans for a multi-story structure to provide general offices and classrooms. | 176,000 |
| 18. New auditorium Building, Manoa Campus, Oahu—Plans for an auditorium. | 154,000 |
| 19. Remodeling of Henke Hall, Manoa Campus, Oahu—Plans, construction and purchase of equipment for remodeling of ex- | 106,000 |

isting spaces to accommodate other programs of the College of Tropical Agriculture.

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| 20. Remodeling of Acquired PRI Facilities, Manoa Campus, Oahu—Plans, construction and purchase of equipment for remodeling of existing spaces to accommodate other programs of the College of Tropical Agriculture. | 104,000 |
| 21. Animal Care and Research Facilities, Mauka Campus, Manoa Campus, Oahu—Construction, purchase of furniture and equipment and landscaping. | 360,000 |
| 22. Leahi Hospital Animal House Extension, Oahu—Plans for an extension to the animal facilities. | 28,000 |
| 23. Modernization of Bilger Hall, Manoa Campus, Oahu—Supplementary appropriation to complete plans for the renovation of Bilger Hall. | 158,000 |
| 24. Modernization of Snyder Hall, Manoa Campus, Oahu—Supplemental appropriation to complete plans for the renovation of a portion of Snyder Hall to accommodate the expansion of various programs in the biological sciences. | 72,000 |
| 25. Physical Education Building, Manoa Campus, Oahu—Plans for a multi-story structure to serve the programs of the Department of Health and Physical Education and the Department of Athletics (inter-collegiate and intramurals). | 166,000 |
| 26. New School of Nursing Building, Manoa Campus, Oahu—Plans for a new facility to house the various programs of the School of Nursing. | 72,000 |
| 27. Music Facilities, Phase I, Manoa Campus, Oahu—Plans and construction. | 1,128,000 |

Research

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| 28. Pacific Biomedical Research Center KORC, Kewalo Basin, Honolulu, Oahu—Construction. | 600,000 |
| 29. New Laboratory Building for the Hawaii Institute of Marine Biology, Coconut Island, Oahu—plans for a two-story laboratory building. | 55,000 |
| 30. Various Improvements for the Hawaii Institute of Marine Biology, Coconut Island, Oahu—Incremental development of minor facilities, roads, utilities and site. | 45,000 |
| 31. Oceanographic Expeditionary Center, Snug Harbor, Honolulu, Oahu—Plans, design and construction of facilities. | 300,000 |

Public Services

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| 32. Leeward Oahu County Extension Service Office, Oahu—Plans for a building to consolidate the programs of the Waianae and Wahiawa offices. | 17,000 |
| 33. Conversion of ETV studios to provide color capability and purchase of a color-capable mobile unit, Oahu. | 450,000 |

Institutional Support

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| 34. Master Plan for a Second Campus, Oahu—Funds to be expended by the University of Hawaii. | 300,000 |
| 35. Makai Campus Drainage, Manoa Campus, Oahu—Plans for a drainage system for the quarry area. | 180,000 |
| 36. Bachman Hall Annex, Manoa Campus, Oahu—Plans for a building to provide additional administrative offices. | 306,000 |
| 37. Student Housing, Manoa Campus, Oahu—Plans for student housing facilities on Waahila Ridge. | 100,000 |
| 38. Student Housing, Manoa Campus, Oahu—Plans and construction of student dormitories with dining and kitchen facilities. | 2,700,000
3,000,000 |

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ities, including purchase of furniture and equipment and landscaping.	4,315,000r
39. Parking Structures, I, II, III and IV, Manoa Campus, Oahu—Construction of multi-story parking facility.	2,000,000r
40. Student Center Building, Phase I, Manoa Campus, Oahu—Construction and purchase of furniture and equipment.	1,250,000
41. Communications Center, Manoa Campus, Oahu—Plans and construction for a communications center on the 5th floor of the new Chemistry Facilities, Phase I.	76,000
42. Hamilton Library, Phase II, Manoa Campus, Oahu—Plans for additional space.	413,000
43. Portable Offices and Classroom Buildings, Manoa Campus, Oahu—Plans and construction to provide interim classrooms, laboratories and offices.	550,000
44. Cooke Field, Manoa Campus, Oahu—Resurfacing of track field.	150,000

Hawaii**Hilo Campus**

45. Cafeteria-Student Union Building, Hilo Campus, Hawaii—Construction and purchase of furniture and equipment.	238,000
46. Administration-Classroom Building, Hilo Campus, Hawaii—Purchase of furniture and equipment.	38,000
47. Development of Physical Education Facilities, Hilo Campus, Hawaii—Plans and construction.	100,000
48. Classroom Building No. 3, Hilo Campus, Hawaii—Plans, construction, and landscaping.	1,100,000
49. Fine Arts Building, Hilo Campus, Hawaii—Plans.	72,000
50. Student Dormitories, Phase III, Hilo Campus, Hawaii—Plans for a new dormitory facility.	192,000
51. Auditorium-Theater, Phase II, Hilo Campus, Hawaii—Plans for addition of stage equipment and loft to complete the theater.	86,000
52. Hilo Campus, Hilo, Hawaii—Construction of portable classroom, equipment, and appurtenances.	75,000

Research

53. Pipeline to Waiakea - Panaewa, Hawaii—Panaewa Experiment Station, Hawaii.	30,000
54. Cloud Physics Observatory Addition, Hilo, Hawaii—Construction and purchase of furniture and equipment.	292,000
55. Hilo Branch Experiment Station Office, Laboratory, and Greenhouse Facilities, Hilo, Hawaii—Plans and construction for new facilities.	69,000

Public Services

56. Cooperative Extension Service Office Building, Kamuela, Hawaii—Plans, construction, purchase of furniture and equipment, and landscaping for a new office building.	76,000
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F. DEPARTMENT OF EDUCATION**Statewide****Schools**

1. Lump Sum Capital Improvement Funds, Statewide—Land acquisition, minor capital improvements and renovations, construction and relocation of portables, master plans, feasibility	2,300,000
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studies, and elimination of architectural barriers in selected schools.

Oahu

Schools

2. Kailua High (New School), Oahu—Plans for a new high school.	1,000,000
3. Kaiser High School, Honolulu, Oahu—Construction of science, physical education, home economics, and business, vocational, math, and food service buildings, outdoor courts, PE field, parking, and site development.	4,300,000
4. Kamiloiki Elementary School, Honolulu, Oahu—Plans and construction of classrooms, site improvements, utilities and parking; plans for classroom building, administration and library building.	1,146,000
5. Koko Head Elementary School, Honolulu, Oahu—Plans for a classroom building with teacher workroom and resource center.	21,000
6. Pearl City High School (New), Oahu—Construction of second increment: classrooms, kitchen-serving area, and PE locker-shower; and plans for third increment: classrooms and expansion of dining facilities.	3,355,000
7. Kaneohe Complex, Oahu—Land acquisition for new school, planning and construction of classrooms.	500,000
8. Ahuimanu Elementary School, Oahu—Supplemental funds for the construction of the first increment and land acquisition.	1,050,000
9. Waimano-Pearl City Elementary School, Oahu—Construction of first increment: classrooms, administration, library and serving lanai.	1,605,000
10. Makalapa Elementary (New School), Oahu—Plans and construction of second increment of master plan: library, classrooms and dining lanai.	799,000
11. Parker Elementary School, Oahu—Plans and construction of classrooms.	1,036,000
12. Hahaione Elementary School, Honolulu, Oahu—Plans for classrooms.	30,000
13. Salt Lake Elementary (New School), Oahu—Plans and construction of library, classrooms, kitchen-dining room and playground.	1,724,000
14. Nanakuli High School, Oahu—Construction of classrooms, plans and construction of central kitchen, multi-purpose building, industrial arts and parking.	1,308,000
15. Waiau Elementary School (Kaonohi), Oahu—Supplementary construction funds for first increment and plans for second increment.	264,000
16. Roosevelt High School, Oahu—Bleachers on makai side of Roosevelt Stadium.	100,000
17. Ala Wai Elementary School, Oahu—Reconstruct walkways to existing classrooms.	20,000
18. Ala Wai Elementary School, Oahu—Plans and construction of additional parking areas.	15,000
19. Roosevelt High School, Oahu—Plans for remodeling of cafeteria.	30,000
20. Jefferson Elementary School, Oahu—Supplement prior appropriation for construction of cafeteria.	30,000
21. Kuhio Elementary School, Oahu—Plans and construction of library.	50,000

22. Kuhio Elementary School, Oahu—Plans and construction of administration building.	45,000
23. Kuhio Elementary School, Oahu—Fencing of school grounds.	10,000
24. Roosevelt High School, Oahu—Plans and construction of a swimming pool.	350,000
25. Manoa Intermediate (New School), Oahu—Plans for an intermediate school to be located in Manoa Valley.	100,000
26. Kuhio Elementary School, Oahu—Plans and construction of 20-classroom building (replacement).	50,000
27. Kaimuki High School, Oahu—Supplemental appropriation for construction of 10-classroom building.	300,000
28. Manoa Elementary School, Oahu—Renovation of existing classrooms.	175,000
29. Noelani Elementary School, Oahu—Asphalting of play court. (Supplemental Appropriation)	20,000
30. Washington Intermediate School, Oahu—Plans for paving and partially roofing central courtyard and relocating outdoor stage.	50,000
31. Hokulani Elementary School, Oahu—Construction of a music building.	45,000
32. Washington Intermediate School, Oahu—Plans for a new PE building with showers, locker rooms and classrooms.	30,000
33. Jefferson Elementary School, Oahu—Plans and construction for Orthopedic Handicap Center. (Supplement prior appropriation.)	50,000
34. Ala Wai Elementary School, Oahu—Extension of library.	100,000
35. Manoa Elementary School, Oahu—Construction of covered walkways at school entrance and between school and Manoa Recreation Center.	25,000
36. Lunalilo Elementary School, Oahu—Supplementary appropriation for construction and furnishing of new administration library-classroom building, including equipment purchase.	100,000
37. Noelani Elementary School, Oahu—Fencing of school grounds.	10,000
38. Roosevelt High School, Oahu—Roof over bleachers at Roosevelt Stadium.	100,000
39. Lunalilo Elementary School, Oahu—Plans and construction of athletic field on campus.	26,000
40. Puuhale School, Oahu—Plans and construction for the reconstruction of Puuhale School.	400,000
41. Farrington High School, Oahu—Construction of classrooms (to supplement prior appropriation).	400,000
42. Likelike Elementary School, Oahu—Correct ventilation of cafetorium.	40,000
43. Kalihi Elementary School, Oahu—Renovation of library.	30,000
44. Farrington High School, Oahu—Improvements to athletic field including installation of lights.	125,000
45. Kaewai Elementary School, Oahu—Renovation of library (to supplement prior appropriation).	80,000
46. Farrington High School, Oahu—Construction of covered walkway to cafetorium.	10,000
47. Farrington High School, Oahu—Construction of mezzanine floor above office in present gym for additional activities.	35,000
48. Farrington High School, Oahu—Construction of permanent outdoor stage.	15,000

49. Red Hill Elementary School, Oahu—Easement and walkway— planning and construction of walkway from Moanalua Hill- side Apartments to Red Hill Elementary School.	15,000
50. Kalakaua Intermediate School, Oahu—Construction of addi- tional classrooms (to supplement prior appropriation).	50,000
51. Kalihi Elementary School, Oahu—Grounds improvement for additional playground and for covered play area (to be sup- plemented by unencumbered balances from Item F-140 of Section I, Act 155, Session Laws of Hawaii 1969).	3,000
52. Lanakila Elementary School, Oahu—Plans and construction of new access road onto grounds from Kuakini Street (to sup- plement prior appropriation).	150,000
53. Maemae Elementary School, Oahu—Cover for walkway on Ewa-Mauka end of building "D".	6,000
54. Maemae Elementary School, Oahu—Plans and construction for a music-science art building.	160,000
55. Maemae Elementary School, Oahu—Plans for three special classrooms and improvement to the playground.	15,000
56. Kapalama Elementary School, Oahu—Plans and construction of three special classrooms for science, art and music.	175,000
57. Farrington High School, Oahu—Purchase of passenger bus for school. (To be expended by Department of Education.)	50,000
58. Farrington High School, Oahu—Construction of loading ramp from existing roadway to print shop.	5,000
59. Kawanakoa Intermediate School, Oahu—Roof repairs to auditorium and annex buildings.	25,000
60. Kauluwela Elementary School, Oahu—Addition of central air-and-sound control system to existing buildings.	50,000
61. Likelike Elementary School, Oahu—Renovate library work- room and stack area.	30,000
62. Kauluwela Elementary School, Oahu—Plans and construc- tion of a library building and plans for an administration building (unexpended balance from Act 155, SLH 1969, Item F-22, may be used for this purpose).	1,000
63. Kauluwela Elementary School, Oahu—Additional funds for plans and construction of a 12-classroom building needed by September 1972 (A supplement to \$352,000 appropriated in 1969 for plans and construction of an 8-classroom building).	10,000
64. Kauluwela Elementary School, Oahu—Grounds improve- ments.	25,000
65. Kalihi-Kai Elementary School, Oahu—Air conditioning and soundproofing of classrooms.	120,000
66. Kalihi-Kai Elementary School, Oahu—Planning and con- struction of eight classrooms.	200,000
67. Lehua Elementary School, Oahu—Plan and construct under- ground sprinkler system.	7,000
68. Alvah Scott Elementary School, Oahu—Installation of air conditioning system.	60,000
69. Pearl City High School, Oahu—Plans and construction of play courts.	32,000
70. Manana Elementary School, Oahu—Plans for Increment III, eight classrooms and teacher work room.	30,000
71. Pearl City Elementary School, Oahu—Plans to soundproof buildings H, I, J, and K adjacent to Kamehameha Highway.	20,000
72. Highlands Intermediate School, Oahu—Plan and construct a	10,000

roof over the courtyard assembly area between the boys' and girls' locker rooms.	
73. Lehua Elementary School, Oahu—Plans for library expansion.	12,500
74. Pearl City Highlands Elementary School, Oahu—Plan and construct three special classrooms for science, music and art classrooms.	157,000
75. Pearl City Highlands Elementary School, Oahu—Plans to expand and renovate library and administration facilities.	8,000
76. Palisades Elementary School, Oahu—Renovate classrooms into special science, music and art classrooms.	58,000
77. Waipahu High School, Oahu—Plans for 10 additional classrooms and library.	40,000
78. Waipahu Elementary School, Oahu—Plans for administration and library facilities.	30,000
79. Crestview Elementary School, Oahu—Master planning.	15,000
80. Waimalu Elementary School, Oahu—Plans for administration building.	11,000
81. Pearl City Elementary School, Oahu—Pave dirt area along driveway to provide parking space.	4,000
82. Honowai Elementary School, Oahu—Plans for multi-purpose dining facility.	15,000
83. Waianae High School, Oahu—Construction of locker room facilities, equipment and additional bleachers.	200,000
84. Makaha Elementary School, Oahu—Plans and construction for multi-purpose dining facility.	189,000
85. Makakilo Elementary School, Oahu—Plans for four special classrooms.	15,000
86. Ewa Beach Elementary School, Oahu—Plans and construction of administration and library facilities and conversion of present office space to classrooms.	416,000
87. Campbell High-Ilima Intermediate School, Oahu—Plans and construction for a gym and swimming pool.	120,000
88. Maili Elementary School, Oahu—Plans and construction of new library and administration facilities. (Unexpended balance from Act 155, SLH 1969 Item F-36, may be used for this purpose.)	70,000
89. Waianae High School, Oahu—Plans for a new library building.	45,000
90. Portable Bleachers for Leeward and Central Oahu School Districts, Oahu.	250,000
91. Aiea High School, Oahu—Portable bleachers for athletic field to increase seating capacity to approximately 10,000 seats.	200,000
92. Waialua High and Intermediate School, Oahu—Plans for a gymnasium.	80,000
93. Wahiawa Intermediate School, Oahu—Plans and construction of ground improvements.	45,000
94. Kipapa Elementary School, Oahu—Plans and construction of administration building and multi-purpose dining room (to supplement prior appropriation).	284,000
95. Mililani High School, Oahu—Plans for five regular and 10 special classrooms, administration and library facilities, kitchen and dining facilities.	219,000
96. Leilehua High School, Oahu—Plans and construction of chemistry rooms and renovation of existing classrooms (to supplement prior appropriation).	81,000

97. Leilehua High School, Oahu—Resurfacing of track.	40,000
98. Leilehua High School, Oahu—Install lights and fencing around agriculture department.	25,000
99. Blanche Pope Elementary School, Oahu—Plans and construction of playground, sprinkler system and fencing.	65,000
100. Kaneohe Elementary School, Oahu—Plans and construction of additional parking area.	35,000
101. Jarrett Intermediate School, Oahu—To supplement prior appropriation for science, art, and teacher workroom/resource center building and planning and construction of fencing.	130,000
102. Kaimuki High School, Oahu—Construction of athletic facilities at Kaimuki High School (to supplement prior appropriation).	459,000
103. Liholiho Elementary School, Oahu—Planning and construction of an administration/library building.	345,000
104. Kaimuki Intermediate School, Oahu—Plans and construction of a band room.	25,000
105. Castle High School, Oahu—Plans and renovation of existing library for classroom use.	32,500
106. Kaimuki High School, Oahu—Plans and construction of an auditorium.	280,000
107. Liliuokalani School, Oahu—Demolition of the administration building at Liliuokalani School and for the surfacing of volleyball and basketball courts on the demolished area, and airconditioning and carpeting for new library.	70,000
108. Central Intermediate School, Oahu—Plans and construction of classrooms (replacement).	524,000
109. Central Intermediate School, Oahu—Installation of mechanical ventilation system for shop building.	5,000
110. Kaahumanu Elementary School, Oahu—Plans for four special classrooms, administration building and demolition of building.	45,000
111. McKinley High School, Oahu—Purchase of additional auditorium seats (to supplement prior appropriation).	40,000
112. Pauoa Elementary School, Oahu—Plans and construction of four special classrooms.	190,000
113. Roosevelt High School, Oahu—Planning and construction of a pedestrian ramp over Auwaiolimu Street linking Stevenson Intermediate School to Roosevelt High School.	90,000
114. Roosevelt High School, Oahu—Planning and construction of men's and women's restrooms and ticket booth, Roosevelt High School Stadium.	50,000
115. Royal Elementary School, Oahu—Construction of library and administration building.	181,000
116. King High School, Oahu—Installation of additional bleachers for gymnasium.	30,000
117. Castle High School, Oahu—Purchase of passenger bus for school (to be expended by the Department of Education).	50,000
118. Castle High School, Oahu—Plans and development of athletic field. Any balance from this appropriation may be used to install additional bleachers on the football field.	60,000
119. Wilson Elementary School, Oahu—Plans and construction of a parking lot, covered walkway, and ground improvements.	25,000
120. Aina Haina Elementary School, Oahu—Plans and construction for lanai enclosures.	65,000

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121. Kahala Elementary School, Oahu—Plans and construction of new library and administration facilities, (Funds from Act 155, SLH 1969, Item F-55, may be used for this purpose.)	250,000
122. Kaalakei Elementary School, Oahu—Land acquisition and plans for construction of a new elementary school (to supplement prior appropriation).	45,000
123. Kalani High School, Oahu—Plans and construction of a snack bar and covered area.	40,000
124. Kalani High School, Oahu—Plans for a swimming pool.	25,000
125. Kalani High School, Oahu—Plans and installation of air conditioners for the audio-visual room.	30,000
126. Waialae Elementary School, Oahu—Plans and construction of classroom building, additional parking stalls and library expansion. (To supplement prior appropriations.)	40,000
127. Campbell High-Ilima Intermediate School, Oahu—Construction of music building, classrooms, locker and showers, roadway and sitework.	970,000
128. Waiau II Elementary (New School), Oahu—Land acquisition and master plan.	215,000
129. Waianae High School, Oahu—Plan and construct a swimming pool.	731,000

Public Libraries

130. Centralized Processing Center, Honolulu, Oahu—Construction of new centralized processing center to house on-going operation; to store films and other library materials and to provide space for expanding operations.	612,000
131. Library and Multi-purpose Community Center at Whitmore City, Wahiawa, Oahu—Land acquisition, plans and construction of a library and multi-purpose community center complex at Whitmore City, Wahiawa.	250,000
132. Hawaii Kai Library, Oahu—Plans and construction of a new public library (to supplement prior appropriation).	60,000
133. Manoa Library, Oahu—Construction of covered shelter and additional parking facilities.	30,000
134. Kaimuki Regional Library, Oahu—Planning and construction of temperature, humidity and acoustical control for Kaimuki Regional Library.	116,000
135. Pearl City Regional Library, Oahu—Plan and construct additional parking spaces.	10,000
136. Kaneohe Regional Library, Oahu—Plans and installation of temperature and humidity control and acoustical control in present facility.	7,000

Support Facilities

137. Stadiums for Oahu School Districts, Oahu—Preliminary plans including site studies and cost studies for stadiums to serve the needs of the Oahu School Districts.	100,000
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Maui

Schools

138. New Maui High and Intermediate School, Maui—Plans and construction of music and physical education building and air-conditioning for library and planning of classrooms.	1,170,000
139. New Hana High and Elementary School, Maui—Plans, land acquisition and construction of first increment.	250,000

140. Molokai High and Intermediate School, Molokai—Plans and construction of an 8-classroom building.	85,000
141. Molokai High and Intermediate School, Molokai—Plans and construction of music building.	85,000
142. Lahainaluna High School, Maui—Plans and construction of new music building.	50,000
143. Lanai High and Elementary School, Lanai—Construction of new gymnasium for multi-purpose use (to supplement prior appropriation).	700,000
144. Makawao Elementary School, Maui—Plans and construction of library and four classrooms.	100,000
145. Wailuku Elementary School, Maui—Plans and construction for administration, library and classroom buildings.	80,000
146. New Kihei Elementary School, Maui—Master plan, land acquisition, and plans for new school K-6.	100,000
147. Lahainaluna High School, Maui—Supplemental appropriation for athletic field, bleachers, track facilities, baseball back-stop and lighting.	50,000
148. Lahainaluna High School, Maui—Plans and construction of principal's cottage and furnishings.	40,000
149. Iao School, Maui—Master plan of existing school.	10,000
150. Kahului School, Maui—Plans, construction and equipment for men's lounge at the Kahului School.	40,000
151. Kualapuu Elementary School, Molokai—Plans and construction of a media center building.	50,000
152. New Lahaina Elementary School, Maui—Upgrade of plans for construction of new Lahaina Elementary School.	50,000
153. Lanai High and Elementary School, Lanai—Plans and construction of music building.	25,000
154. Lanai High and Elementary School, Lanai—Construction of covered walkways.	25,000
155. Kahului School, Maui—Improvements to parking area.	40,000

Public Libraries

156. Kahului Library, Maui—Plans for the addition of 4,000 square feet to provide space for collection of materials as a regional library.	14,000
157. Lanai Community/School Library, Lanai—Plans for a community/school library with humidity and temperature control.	32,000

Hawaii

Schools

158. Hilo High School, Hawaii—Construction of home economics, electronics, agriculture classroom and shop, connecting covered walkways, access road, parking and equipment.	438,000
159. Paauilo Elementary and Intermediate School, Hawaii—Planning and construction of a covered physical education and assembly area supplemented by prior appropriation for Paauilo School. Appropriation may be spent for equipment and other appurtenances.	100,000
160. Laupahoehoe High and Elementary School, Hawaii—Planning and construction of a swimming pool, classrooms and appurtenances supplemented by prior appropriations made to Laupahoehoe School. Appropriation may be spent for teachers' cottages and plans for an athletic field.	200,000

161. Honokaa High and Elementary School, Hawaii—Plans and construction of home economics facility, relocation and construction of agricultural and other shops (auto mechanic, electronics), music building, and elementary classrooms, supplementing prior appropriations for Honokaa School.	211,000
162. Konawaena High and Intermediate School, Hawaii—Plans for enlarged cafeteria. Renovate kitchen.	50,000
163. Kau High and Pahala Elementary School, Hawaii—Supplement prior appropriation for PE facilities, improvements to existing classroom facilities, new classrooms, library, art room, ground improvements and other appurtenances.	200,000
164. Kohala High and Elementary School, Hawaii—Reroof buildings A, B, C, and D, extend administration building, add covered walks.	50,000
165. Hilo Union Elementary School, Hawaii—Supplement prior appropriation for six classroom building. Construct administration, library, renovate main building. Covered walks.	300,000
166. Kealahou Elementary School, Hawaii—Plan six-classroom building. Playground improvements.	50,000
167. Haaheo Elementary School, Hawaii—Plan and construct boys' and girls' toilets.	15,000
168. Mt. View Elementary and Intermediate School, Hawaii—Plans for four classrooms, covered walks, also to supplement prior appropriation for community and school library.	150,000
169. Keaau Elementary School and Intermediate School, Hawaii—Plans for eight classrooms, covered walk, parking, also to supplement prior appropriation for community and school library.	225,000
170. Hilo Intermediate School, Hawaii—Plan and construct classrooms.	75,000
171. Kalanianaʻole Elementary and Intermediate School, Hawaii—Plan and construct multi-purpose cafetorium, and covered walkway.	450,000
172. Kohala High and Elementary School, Hawaii—Plans for four-elementary classrooms. Covered walkway.	25,000
173. Naalehu Elementary School, Hawaii—Plans for eight-classroom replacement, and for essential school facilities.	75,000
174. Kaumana Elementary School, Hawaii—Plans for four classrooms and office.	25,000
175. Second High School, Hilo and Waiakea Community/School Library Complex, Hawaii—Master plan and plans, construction, and site preparation, and other appurtenances.	200,000
176. Waiakeawa Elementary School, Hawaii—Plans and construction of classrooms.	50,000
177. Waiakea Intermediate School, Hawaii—Plans to cover loading and unloading and for widening of roadway, entrance, and exit.	10,000
178. Keaukaha Elementary School, Hawaii—Plans and construction of school library.	100,000
179. Pahoa High and Elementary School, Hawaii—Plans and construction of essential school facilities, including but not limited to, improvement to existing classroom buildings and new classrooms, libraries, art room and cafetorium, ground improvements, equipment, instruments and other appurtenances.	200,000
180. Hawaii District Schools, Hawaii—Replacement of out-	35,000

moded band instruments and science laboratory equipment (to be expended by the Department of Education).

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| 181. Puna District School-Community Library, Hawaii—To supplement prior appropriation for construction, equipment, books and including humidity and temperature control. | 100,000 |
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Kauai

Schools

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| 182. Waimea Elementary and Middle School, Kauai—Supplemental funds to plan and construct middle school: 16 regular classrooms, 14 special program classrooms, plus administration and library buildings and equipment. | 250,000 |
| 183. Kapaa Elementary School, Kauai—Construction of library and custodian's work storage building. | 310,000 |
| 184. Koloa Elementary School, Kauai—Plans and construction of 11 classroom building; integrated utility system. | 400,000 |
| 185. Kalaheo Elementary School, Kauai—Plans and construction of four-classroom building and team centers. | 250,000 |
| 186. Kekaha Elementary School, Kauai—Plans and construction of two four-classroom primary buildings, team center, and library. | 300,000 |
| 187. Kapaa High and Intermediate School, Kauai—Plans for construction of 16-classroom building, physical education and athletic facilities, and integrated utility system. | 100,000 |
| 188. Waimea High and Intermediate School, Kauai—Plans for physical education facilities with play courts. | 45,000 |
| 189. Kapaa Elementary School, Kauai—Plans for construction of eight-classroom primary building and plans for administration building. | 50,000 |
| 190. Kauai High and Intermediate School, Kauai—Plans for 21 classroom replacement. | 55,000 |
| 191. Eleele Elementary School, Kauai—Plans for administration and library building(s) and plans for the renovation of existing cafeteria building into two large primary classrooms. | 40,000 |

Public Libraries

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| 192. Kauai Public Library (Regional Library), Kauai—Installation of coaxial cable between library and Wilcox School and removal of electric and telephone poles. | 14,000 |
| 193. Koloa Community School Library, Kauai—Plans, construction and furnishing. | 250,000 |

G. HAWAIIAN HOME LANDS

(To be expended by the Department of Hawaiian Home Lands)

Oahu

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| 1. Waimanalo Subdivision, Oahu—Incremental plans and construction of roads, curbsings, water and electric lines for residential lots and completion of drainage canal. | 690,000
55,000s |
| 2. Hiilani and Tantalus Streets, Oahu—Plans and construction for flood and drainage system and road improvements, vicinity of Hiilani and Tantalus Streets. | 175,000 |

Maui

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| 3. Paukukalo Subdivision, Maui—Construction of roads, installation of utilities, and survey and stake out of 40 residential lots. | 175,000 |
| 4. Molokai Recreational-Community Center-Office Complex, Molokai—Construction of a recreational playground commu- | 90,000
10,000s |

nity center and office complex including equipment (to supplement prior appropriation).

Hawaii

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| 5. Street lighting facilities, Keaukaha Subdivision, Hawaii. | 5,000 |
| 6. Panaewa Subdivision, Hawaii—Plans and construction of playground facilities. | 10,000 |

Kauai

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| 7. Anahola Houselots, Kauai—Plans and construction of roads, water and other utilities necessary for the development of 50 lots. | 175,000 |
| 8. Anahola and Moloaa Farmlots, Kauai—Plans and construction of roads, domestic water and irrigation system necessary for development of 20 farmlots. | 50,000 |
| 9. Kekaha Houselots, Kauai—Plans and construction of roads, water and other utilities necessary for the development of 25 lots. | 90,000 |

H. DEPARTMENT OF HEALTH

Statewide

Public Health and Others

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| 1. Sewerage Construction Grants, Statewide—Grants-in-aid to County or State agencies for eligible water pollution control facilities conforming with the State water pollution control plan as authorized under Section 1 of Act 117, SLH 1969. (Funds to be expended by the Department of Health.) | 2,500,000 |
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Oahu

Public Health and Others

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| 2. Lanakila Health Center, Honolulu, Oahu—Construction of a new health center to house the Children's Health Services Division, Public Health Nursing Branch, Communicable Disease Division, Dental Health Division, Health Education Office, and Mental Health Division. | 1,378,000 |
| 3. Leeward Community Health Center, Pearl City, Oahu—Plans for a new health center to house the Mental Health Division, Public Health Nursing Branch, Dental Health Division, Health Education Office, Children's Services Division, and Communicable Disease Division. | 50,000 |
| 4. Hawaii State Hospital, Kaneohe Oahu—Remodeling of a ward for moderate security ward. | 126,000 |
| 5. Hawaii State Hospital, Kaneohe, Oahu—Resurfacing of certain roads at Hawaii State Hospital. | 163,000 |
| 6. Hawaii State Hospital, Kaneohe, Oahu—Plans and construction of an environmental house. | 6,000 |
| 7. Waimano Training School and Hospital, Pearl City, Oahu—Construction of Ancillary (Building "B") to complete ward and dining facilities. | 171,000 |
| 8. Waimano Training School and Hospital, Pearl City, Oahu—Renovation of Building 4 Wing II (Ewa Ward) to provide residents with sleeping area, day room, and toilet facilities. | 65,000 |
| 9. Sheltered Workshops for the Physically and Mentally Handicapped and Child Training Center, Wahiawa, Oahu—Construction, purchase of furniture and equipment to supplement prior appropriations. | 120,000 |

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| 10. Waianae-Nanakuli Clinic, Oahu—Acquisition of land, plans, construction and equipment for facilities to support the provisions of Act 299, SLH 1967. | 335,000 |
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Grant-in-Aid

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| 11. Queens Medical Center, Oahu—Grant-in-aid for completion of medical surgical facilities. | 400,000 |
| 12. Castle Memorial Hospital, Oahu—Grant-in-aid for the expansion of Castle Memorial Hospital. | 300,000 |
| 13. Waikiki Drug Clinic, Oahu—Grant-in-aid for construction and renovation of the Waikiki Drug Clinic. | 20,000 |
| 14. Kuakini Hospital, Oahu—Completion of fourth floor shell and other hospital improvements. | 250,000 |
| 15. Kahuku Hospital, Oahu—Additional emergency equipment within coronary and intensive care units and heart lung resuscitator for emergency services. Renovations, alterations and improvements to existing Hospital and purchase of equipment. Unexpended balance from Act 155, SLH 1969, Item O-3, may be used for this purpose. | 75,000 |

Act 97 Hospitals

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| 16. Maluhia Hospital, Honolulu, Oahu—Renovation of existing building and new improvements. | 644,000 |
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Maui

Public Health and Others

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| 17. J. W. Cameron Center, Maui—Plans and construction of a comprehensive rehabilitation center including equipment. To be matched by Federal and other funds. (To supplement prior appropriation). | 600,000 |
| 18. Lahaina Medical Center, Maui—Plans, site selection, and construction of a diagnostic medical center. | 100,000 |

Grant-in-Aid

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| 19. Hale Makua, Wailuku, Maui—Plans and construction of intermediate care units at Maui Memorial Hospital Complex. | 150,000 |
| 20. Lanai Community Hospital, Lanai—Construction of nurses' quarters including furniture, staff residence including furniture, acquisition of land, and purchase of hospital equipment and other improvements (to supplement prior appropriation). | 106,000 |

Act 97 Hospitals

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| 21. Maui Memorial Hospital, Wailuku, Maui—Renovation of X-Ray Department, including purchase of new Diagnostic X-Ray Unit. | 50,000 |
| 22. Maui Memorial Hospital, Wailuku, Maui—Plans for the renovation and modernization of existing building. | 25,000 |
| 23. Kula Sanatorium and General Hospital, Makawao, Maui—Completion of remodeling of hospital kitchen, including new equipment and improved system. | 155,000 |
| 24. Kula Sanatorium and General Hospital, Makawao, Maui—Plans for hospital modernization. | 40,000 |
| 25. Kula Sanatorium and General Hospital, Makawao, Maui—New Class A quarterway home to place selected mental patients for independent living prior to community placement. | 40,000 |
| 26. Kula Sanatorium and General Hospital, Makawao, Maui— | 68,000 |

ACT 187

Restoration of hospital laundry operation, including building renovation and new equipment.

Hawaii

Public Health and Others

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| 27. Purchase of cobalt and general equipment for Hilo Hospital. (To be expended by the Department of Health.) | 125,000 |
| 28. Health Laboratory Office Building, Honokaa, Hawaii—Construction of a plague, leptospirosis, rodent control laboratory office building, incinerator shed, and auto service area. | 175,000 |

Act 97 Hospitals

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| 29. Kona Hospital, Hawaii—Construction of new hospital at present Kona Hospital site. | 2,409,000 |
| 30. New Kau Hospital, Hawaii—Equipment for new hospital. | 160,000 |
| 31. Hilo Hospital, Hawaii—Preliminary plans for a mental health facility, including treatment room, day room, parking, dining room, serving kitchen, and nurses' station and utility room. | 10,000 |
| 32. Hilo Hospital, Hawaii—Purchase of equipment and improvements to extended care facilities. | 25,000 |

Kauai

Public Health and Others

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| 33. Lihue Health Center Improvements, Kauai—Plans and construction for additional office space and storage area; covered walkway connecting main building, new offices, and storage area; additional parking area for public parking fencing; and rubbish enclosure. | 246,000 |
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Grant-in-Aid

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| 34. G. N. Wilcox Memorial Hospital, Lihue, Kauai—Supplemental grant-in-aid for the construction of facilities at G. N. Wilcox Memorial Hospital. | 500,000 |
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Act 97 Hospitals

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| 35. Sam Mahelona Memorial Hospital, Kapaa, Kauai—Renovation and furnish former occupational therapy area for use as lounge and restroom. | 10,000 |
| 36. Sam Mahelona Memorial Hospital, Kapaa, Kauai—Remove present canec ceiling and install fireproof acoustic tile, install second fire alarm annunciator panel, and install fire sprinkler system. | 51,000 |
| 37. Kauai Veterans Memorial Hospital, Waimea, Kauai—Plans and land acquisition for a 25-bed long-term care unit. Plans and land acquisition for a helistop for receiving emergency cases by helicopter. | 190,000 |
| 38. Kauai Veterans Memorial Hospital, Kauai—Lighting of parking lot. | 5,000 |

I. DEPARTMENT OF SOCIAL SERVICES

Oahu

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| 1. Hawaii State Prison, Oahu—Installation of roof ventilators and windows, pouring of concrete floor, installation of a new set of doors and lights. | 15,000 |
| 2. Conditional Release Center, Oahu—Plans for a second pre-parole conditional release center. | 61,000 |

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| 3. Hawaii Youth Correctional Facility, Kailua, Oahu—Plans for satellite wards. | 15,000 |
| 4. Hawaii State Prison, Oahu—pave sally port area and administration building parking lot. | 28,000 |

Hawaii Housing Authority

(To be expended by the Hawaii Housing Authority)

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| 5. Nuuanu-Kukui low-income housing, Oahu—Construction of dwelling units for the elderly. | 3,500,000r |
| 6. Ewa-Waipahu low-income housing, Oahu—Construction of dwelling units for the elderly. | 1,200,000r |
| 7. Wahiawa-Waialua low-income housing, Oahu—Construction of dwelling units for the elderly. | 1,200,000r |
| 8. Piikoi-Wilder low-income housing, Oahu—Construction of dwelling units for the elderly. | 3,500,000r |
| 9. Palolo Homes, Oahu—Construction of adequate parking stalls at the Palolo Homes. | 147,000 |
| 10. Makalapa Neighborhood Community Facilities, Aiea, Oahu—Plans and construction of the Makalapa Neighborhood Community Facilities Building including purchase of necessary furniture and appliances. | 338,000 |

Vocational Rehabilitation and Services for the Blind

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| 11. Improvements to Ho'opono Building, Oahu—Air conditioning of Ho'opono Building for the Blind Program. | 10,000 |
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Hawaii

Corrections

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| 12. Kulani Honor Camp, Hawaii—Improvements to Kulani Honor Camp road. | 163,000 |
| 13. Kulani Honor Camp, Hawaii—Supplement prior appropriations for water line. | 7,000 |

Hawaii Housing Authority

(To be expended by Hawaii Housing Authority)

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| 14. Lanakila Housing, Hilo, Hawaii—Plans, equipment and installation of lighting facilities for playground. | 10,000 |
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Vocational Rehabilitation

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| 15. Rehabilitation Complex, Hilo, Hawaii—Plans, construction, equipment and other appurtenances for the sheltered workshop. | 60,000 |
| 16. Sheltered Workshop, Kona, Hawaii—To supplement prior appropriation; car washing stall. | 7,000 |

Kauai

Hawaii Housing Authority

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| 17. Hawaii Housing, Kauai—Installation of fire safety equipment for low-income housing at Hanamaulu, Eleele, Kalaheo, and Kapaa, Kauai. | 60,000 |
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J. DEPARTMENT OF DEFENSE

Statewide

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| 1. Replacement of Civil Defense Warning Sirens, Statewide—Replacement of Civil Defense Disaster Warning Sirens. | 10,000
10,000f |
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| 2. Additional Disaster Warning Sirens, Statewide—Installation of additional Civil Defense Warning Sirens in all counties of the State. | 26,000
26,000f |
| 3. Modification of Three Tunnels at Diamond Head Crater, Oahu—Ventilation of three existing tunnels on the slopes of Diamond Head Crater and the installation of a gasoline air cooled generator. | 22,000 |

K. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES**Statewide**

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|---|---------|
| 1. Advance Planning Funds, Statewide—Planning funds to assist User Agencies in preparing C.I.P., preparation of D.A.G.S. C.I.P., preparing Project and Complex Development reports, Staff Studies and review and updating existing reports. | 100,000 |
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Oahu

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| 2. Multi-Agency Building, Honolulu, Oahu—Third and final payment of a building formerly owned by the Hawaiian Trust Company and under agreement of sale to the State of Hawaii. | 898,000 |
| 3. Shafter Flats Development, Honolulu, Oahu—Incremental plans and construction of facilities for the Central Services Division, the Surplus Property Branch and the Archives Division (Record Storage). | 297,000 |
| 4. Purchase of Capitol Annex Block, Honolulu, Oahu—Incremental purchase of Capitol Annex Block bound by Beretania, Kapiolani Extension, Hotel, and Punchbowl Streets. | 1,700,000 |
| 5. Vineyard Street Garage, Honolulu, Oahu—Land acquisition, plans, and incremental construction of an off-street garage for the Mauka portion of the Capitol Complex. | 893,000 |
| 6. Remodeling and Upgrading State Office Spaces, Honolulu, Oahu—Remodeling and upgrading space, including air-conditioning of offices utilized by State agencies. | 410,000 |
| 7. Grounds Improvement to Judiciary Building State Capitol Complex Civic Center, Honolulu, Oahu—Construction of a mall around Kamehameha statue; re-route traffic pattern and construction of a bus loading area. | 76,000 |
| 8. New State Office Building No. 1, Honolulu Civic Center, Oahu—Plans and construction of a structure to house State Departments in the Honolulu Civic Center. | 25,000 |
| 9. State Communications System, Honolulu Civic Center, Oahu—Connection of telephone services for the new Centrex Telephone System and duct line repairs. | 30,000 |

Maui

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| 10. State Office Building, Wailuku, Maui—Land acquisition and incremental construction of on-surface parking and parking structure for public parking. | 85,000 |
| 11. State Office Building, Wailuku, Maui—Plans for the construction of the fourth floor to the new State Office Building to accommodate the Wailuku District Court, and the expansion of agencies presently requiring additional office space in this building. | 36,000 |
| 12. Renovation of Wailuku Old Tax Office, Maui—Renovation of Wailuku Old Tax Office Building, including structural, electrical, plumbing and airconditioning work; also site work, landscaping and parking improvements. | 193,000 |

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| 13. Molokai Civic Center, Kaunakakai, Molokai—Plans for a new building for the District Court; addition and alteration of the existing building for the Department of Health and the University of Hawaii Extension Service. | 33,000 |
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Hawaii

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| 14. New Parking Garage, Hilo State Office Building, Hawaii—Incremental plans and construction of a new parking garage next to the existing parking lot. | 41,000 |
| 15. Waimea Civic Center, Waimea, Hawaii—Plans and construction of a multi-agency building. | 29,000 |
| 16. Headstart Facilities, Kona, Hawaii—Plans and Construction of two Headstart facilities in Kona, Hawaii. Any unexpended balance may be used for other Headstart facilities in the County of Hawaii. (To be expended by the Department of Accounting and General Services, with consultation from the Department of Education and also the Office of Economic Opportunity). | 100,000 |
| 17. Civic Center, North Kohala, Hawaii—To be supplemented by Item K-16, Act 155, SLH, 1969. | 80,000 |
| 18. Construction of retaining wall at site of Kamehameha Statue in Kohala, Hawaii, including widening of road for parking. | 8,000 |
| 19. Hilo State Office Building, Hilo, Hawaii—Abrasive covering for interior stairways, alterations for blind vendor facilities and alterations and improvements to Tax Office. | 10,000 |

Kauai

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|---|---------|
| 20. Remodeling of Fifth Circuit Court Building, Lihue, Kauai—Alterations and improvements to the Fifth Circuit Court Building, including air conditioners and equipment. | 234,000 |
| 21. Lihue Civic Center Parking, Kauai—Plans and construction of State on-surface parking lots as part of the Lihue Civic Center. | 23,000 |
| 22. Koloa Civic and Senior Citizens Opportunity Center, Kauai—Plans and construction of facilities for the District Court, Health, Social services, Senior Citizens Opportunity Center, and Kauai County. | 185,000 |

L. GOVERNOR

(To be expended by the Governor)

Oahu

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| 1. Conference Center—Purchase of land and buildings of Kaiser Estate located on Portlock Road or any other site for use as an international conference center as well as other conferences and seminars. | 2,500,000 |
| 2. Swimming Pool Complex, Oahu—Plans and construction of swimming facilities, including a system of pool or pools with related improvements for championship competition and large-scale spectator facilities. | 2,000,000 |

M. JUDICIARY

Oahu

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| 1. District Court of Honolulu, Oahu—Plans for the District Court of Honolulu, Rural Court Central Office and the Traffic Violations Bureau. | 100,000 |
| 2. District Court of Koolauloko, Oahu—Plans for the Koolau- | 30,000 |

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poko District Court to be located in the Kaneohe Civic Center.

3. State Judiciary Complex Development, Honolulu, Oahu—Plans, construction, equipment and land acquisition. 400,000

Maui

4. District Court of Makawao, Maui—Supplemental funds to plan and construct a court facility for Makawao District. 89,000

Kauai

5. District Court of Hanalei, Kauai—Plans and construction of parking facilities for Hanalei District Court. 25,000
6. District Court of Waimea, Kauai—Plans for a court facility for the Waimea District Court. 19,000

AID TO COUNTIES

N. City and County of Honolulu

(To be expended by the City and County of Honolulu)

Flood Control

1. Kahaluu Flood Control, Kahaluu, Oahu—Construction of channel and recreational improvements for Ahuimanu, Kahaluu and Waihee Streams. 1,050,000
1,120,000f
680,000x
265,000
2. Drainage and Flood Control Improvements, Oahu—Drainage and flood control improvements in the Kapalama, Liliha, and Puunui areas.
3. Planning of a permanent bank along the Kapalama Stream. 2,000
4. Storm Drainage System in Waikiki, Oahu—Planning of storm drainage system in Waikiki. 25,000
25,000x

Parks and Recreation

5. Booth Playground, Oahu—Plans and construction of 25-yard, 8-lane swimming pool with filtration plan and shower facilities. 175,000
175,000x
6. Booth Playground, Oahu—Plans for construction of gymnasium. 50,000
7. Portable swimming pools, Kalihi Valley Playground, Oahu—Purchase of three portable pools and one special institutional pool to support a pilot project for a joint program between the State Department of Education and the Department of Parks and Recreation of the City and County of Honolulu to teach school children to swim. 50,000
8. Police Activities League Center, Oahu—Construction of a police activities league center. 250,000
9. DeCorte Park, Oahu—Improvements including relocation of existing fence from middle of park. 25,000
10. Salt Lake Community Park, Oahu—100,000
100,000x
200,000
11. Kalihi Valley Community Field House, Oahu—Supplement prior appropriation for plans and construction of Kalihi Valley Community Field House. 200,000
12. Little League Stadium, Oahu—Plans and construction of a Little League stadium at Keehi Lagoon Park. To be matched by the City and County of Honolulu or by private funds. 400,000
100,000x
13. Puunui Park, Oahu—Improvements including leveling and filling of present park area. 100,000
14. Lanakila Park, Oahu—Lighting system and expansion of existing pavillion building. 90,000

15. Alewa Park, Oahu—To supplement prior appropriation to complete park facility.	15,000
16. Land acquisition and improvement for mini parks in the Palama-Kapalama area to be used only for volleyball or for basketball, or for tennis courts.	300,000
17. Makalapa Elementary School Park, Oahu—Improvements to park and construction of related park facilities.	50,000 50,000x
18. Makaha Beach Park, Oahu—Installation of permanent street and park lights to discourage vandalism and aid enforcement.	5,000
19. Hans L'Orange Park, Waipahu, Oahu—Improvements at Hans L'Orange Park including demolition of existing grandstand and bleachers and construction of a new grandstand and bleachers, lighting for the baseball field and play courts, fencing and renovation of dugouts.	120,000
20. Pacheco Park, Pearl City, Oahu—Plans and construction of a retaining wall and field lights.	95,000 95,000x
21. McCully Recreation Center, Oahu—Plans and construction of the Center. Supplement to appropriations made by Act 217, SLH 1967 and Act 40, SLH 1968. Funds to be expended by the City and County of Honolulu, and the recreational center facilities shall be made available for use by the McCully Japanese Language School, pursuant to an agreement to be executed by and between the City and County of Honolulu and the McCully Japanese Language School. The said agreement shall conform substantially to the stipulation and order filed on December 27, 1968 in the Circuit Court of the First Judicial Circuit, State of Hawaii in Civil Order No. 3884 or any subsequent order of the Court in said matter.	100,000 100,000x
22. Makiki Recreational Center, Oahu—Initial purchasing plan of HSPA property.	100,000 100,000x
23. Manoa Little League Stadium, Oahu—Plans of a Manoa Little League stadium at Manoa Field.	10,000 10,000x
24. Night lights at Manoa Field, Oahu—Installation of night lights.	50,000 50,000x
25. Manoa Community Center, Oahu—Construction of parking facilities.	25,000
26. Manoa Community Center, Oahu—Construction of covered walkways.	10,000
27. Gateway park in Waikiki, Oahu—Land acquisition, plans and construction of a gateway park at Kuhio and Kalakaua Avenues in Waikiki.	250,000 250,000x
28. Neighborhood Youth Facility, Palolo Playground, Oahu—Construction of a neighborhood youth facility at the Palolo Playground in Palolo, Oahu. To supplement prior appropriation.	350,000
29. Paki Playground, Oahu—Plans and construction of a swimming pool.	125,000 125,000x
30. Kilauea Field, Oahu—Plans and construction of a 8-lane, 50-meter swimming pool.	200,000 200,000x
31. Kaneohe Park Complex and Recreational Center, Kaneohe, Oahu—Plans and construction of a park complex and recreational center consisting of multi-purpose buildings, a swimming pool, and related facilities necessary for the recreational needs of the community.	350,000 350,000x
32. Fred Wright Park, Wahiawa, Oahu—Installation of lights at Fred Wright Park, Wahiawa.	25,000 25,000x

Water

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| 33. Installation of 10,000 feet of 30 inch transmission lines and other appurtenances from Waimanalo to the Makapuu area, Oahu. | 250,000
500,000x |
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Roads

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| 34. Bridge over Ala Wai Canal, Oahu—Plans and construction for a vehicular and foot bridge over the Ala Wai Canal at University Avenue, and extension of University Avenue from Kapiolani Boulevard to Ala Wai Canal. | 215,000
215,000x |
| 35. Puiwa Lane, Oahu—Widening and necessary improvements of Puiwa Lane, City and County of Honolulu. | 50,000 |
| 36. Lighting of King Street between Liliha Street and Owen Street. | 60,000 |
| 37. Repave Puuhale Road between Nimitz Highway and Dillingham Boulevard. | 5,000 |
| 38. Salt Lake Boulevard, Oahu—Plans, construction and improvements to Salt Lake Boulevard. | 200,000
200,000x |
| 39. Farrington Highway, Oahu—Installation of signal lights at the intersection of Makakilo Drive and Farrington Highway. | 26,000 |
| 40. Public off-street parking in Waikiki, Oahu—Planning and design of a public off-street parking garage in Waikiki at Kuhio and Seaside or Liliuokalani and Kuhio. | 100,000
100,000x |

Others

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| 41. Kaaawa, Oahu—Plans and construction for the improvement of roads and flood control. | 100,000
100,000x |
| 42. Hauula, Oahu—Plans and construction for the improvement of roads and flood control. | 100,000
100,000x |
| 43. Kapalama Canal, Oahu—Cleaning, landscaping, and beautification. Upon completion, maintenance by the City shall be in accordance with the federal water quality standards. | 100,000 |

O. County of Maui

(To be expended by the County of Maui)

Water

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| 1. Kaunakakai Storage Tank and Transmission Line, Molokai—Replacement of old inadequate storage tank and transmission line with larger storage tank and transmission line. (to be expended by the Maui County Board of Water Supply) | 190,000 |
| 2. Kihei Water Project, Phase III, Maui—Replacement of old inadequate tanks with larger storage tanks and transmission line. (to be expended by the Maui County Board of Water Supply) | 450,000 |
| 3. Makena Water Project, Maui—Construction of new transmission pipeline from Kihei to Makena with storage tank. (to be expended by the Maui County Board of Water Supply) | 340,000 |
| 4. Hana Water Project, Maui—Plans and construction of well pump, storage tank, and transmission lines. (to be expended by the Maui County Board of Water Supply) | 140,000 |
| 5. Ualapue Water Project, Molokai—Installation of transmission line and construction of storage tank with new pump. (to supplement prior appropriation and to be expended by the Maui County Board of Water Supply) | 250,000 |
| 6. Kamalo Transmission Line, Molokai—Installation of transmission line, a new pump, and a new tank. (to be expended by | 25,000 |

the Maui County Board of Water Supply)

Parks

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| 7. Maui War Memorial Center, Wailuku, Maui—Construction of football and track stadium and other improvements. | 430,000
400,000x |
| 8. Maui Zoo—Plans and construction of a zoo. (to supplement prior appropriation) | 30,000 |
| 9. Lahaina Civic And Recreational Center, Maui—Incremental construction of a civic and recreational center complex. (to supplement prior appropriations). | 700,000
700,000x |

Drainage

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| 10. Main Street Drain - High to Market Streets, Maui—Plans and construction of a storm drainage. | 35,000
35,000x |
| 11. Drainage and Sewer Master Plan, Maui—A general Master plan for drainage for the County of Maui. | 50,000
50,000x |

Flood Control

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| 12. Napili Flood Control, Maui—Acquisition of rights-of-way for drainage ditch. | 110,000
110,000x |
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Sewers

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| 13. Lanai sewerage system—to supplement prior appropriations. | 225,000 |
| 14. Napili Sewage System, Maui—Plans for sewer system, acquisition of land and first phase of construction of sewage-treatment plant. | 160,000
470,000x
200,000f |
| 15. Kihei Sewage System, Maui—Plans for sewer system and first phase of construction of sewage-treatment plant (to be matched by other funds). | 750,000
750,000x |
| 16. Wailuku Treatment Plant, Maui—Plans, acquisition of land and construction of sewage-treatment plant. Prior appropriation for Kahului Sewerage System in Act 195, SLH 1965, Act 38, SLH 1966, and Act 217, SLH 1967 may be used for this project. | 200,000
200,000x |

Others

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| 17. Makawao Civic Center, Makawao, Maui—Plans and construction of a 50-meter swimming pool. | 125,000
125,000x |
| 18. Kepaniwai Park, Maui—Plans and construction of final increments of the "Heritage Gardens" park. | 100,000
100,000x |
| 19. Maui Historical Restoration, Maui—Part of a continuing project to research, preserve and restore historically significant buildings in Lahaina and other areas on Maui. | 50,000
50,000x |
| 20. Lahaina Offstreet Parking, Lahaina, Maui—Acquisition of land for offstreet parking lot. | 100,000
100,000x |

P. County of Hawaii

(To be expended by the County of Hawaii)

Water

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| 1. Papaikou-Kaieie-Kalaoa Pipeline Extension, Hawaii—Extension of 6 inch main line from Papaikou Water System to Kalaoa and Kaieie and connection to Kaieie Water System. | 100,000
100,000x |
| 2. Honomu Transmission Line, South Hilo, Hawaii—Installation of a new 6 inch transmission main from source to Honomu. | 80,000
80,000x |
| 3. Laupahoe Water System, Hawaii—Installation of Laupahoe - Waipunalei 6 inch parallel transmission. | 50,000
25,000x |

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| 4. Komohana Water Development, Hawaii—Install a 12 inch trunk line from Waianuenue Avenue to Mohouli Street. | 100,000
100,000f
87,000x |
| 5. Panaewa Farm and House Lots Subdivision: Waiakea, South Hilo, Hawaii—Improving water system, fire protection, and other appurtenances. | 210,000
210,000x |

Drainage

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| 6. Hilo Storm Drainage, Hawaii—Acquisition of drainage easements, plans, improvements to existing drainageway and construction of new drainage systems. | 200,000
400,000f
200,000x |
| 7. Waiohinu Flood Control, Hawaii—Planning, land acquisition and construction of flood control works in Waiohinu. Supplements prior County appropriation. | 125,000
125,000x |
| 8. Waiakea-Uka Flood Control, Hawaii—Land acquisition and flood control project (supplement to prior appropriation). | 100,000 |

Roads

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| 9. Alii Drive Realignment, North Kona, Hawaii—Land acquisition and plans for improvement and realignment of road. | 50,000
50,000x |
| 10. Napoopoo-Honaunau Beach Road, South Kona, Hawaii—Land acquisition, plans and construction for the improvement and realignment of existing roadway. | 220,000
440,000FAS
220,000x |
| 11. East Hawaii—Plans and construction of drag strip, equipment and appurtenances. (to be expended by the County of Hawaii). | 100,000
100,000x |
| 12. Kapoho-Keaukaha Coastal Road, Puna, Hawaii—Land acquisition, plans and construction of scenic highway along the coast. | 125,000
250,000FAS
125,000x |
| 13. Kynnersley Road Improvements, Hawaii—Provide a pedestrian walk and drainage to Kynnersley Road. | 50,000
50,000x |
| 14. Pahoa-Pohoiki Road, Hawaii—Construction to follow State and Federal secondary highway standards. | 110,000
220,000FAS
110,000x |
| 15. Puna-Kau Homestead Road, Hawaii—Repair, construct, pave and resurface Homestead Road and other farm to market roads. | 30,000
30,000x |

Parks

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| 16. Hoolulu Park Development, South Hilo, Hawaii—Development of baseball field, track and field arena, and accompanying restrooms and parking facilities, and 50-meter swimming pool. | 600,000
600,000x |
| 17. Kona (Keei) Golf Course, South Kona, Hawaii—Incremental construction of a regulation 18-hole municipal course, complete with clubhouse and driving range facilities. | 200,000
375,000x |
| 18. Planning and construction of a swimming pool at Kapaau, North Kohala, Hawaii—An outdoor 25-yard, eight-lane swimming pool complete with toilet and shower facilities and filter room at Kapaau, North Kohala. | 25,000
25,000x |
| 19. Purchase or lease of three place helicopter fully equipped, including stretchers. Said helicopter is to be used and maintained by the Fire Department for search and rescue operations and emergencies, including the transportation of accident victims to the appropriate State hospital facilities, provided that State departments shall be authorized to use same on an appropriate contractual basis. | 150,000 |

Sewers

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| 20. Kailua-Kona Sewerage System, Phase II, Hawaii—Construction of Phase II of existing Kailua-Kona, Hawaii Sewerage System. (Supplements prior appropriation). | 450,000 |
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Q. Kauai**Water**

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| 1. Board of Water Supply Office and Baseyard Buildings, Lihue, Kauai—Construction of office and Baseyard buildings. | 200,000
200,000x |
| 2. Lihue Water System, Kauai—Incremental development of transmission main. | 50,000
50,000x |
| 3. Haena Water System, Kauai—Land acquisition, plans, and construction of a storage tank and connecting main. | 60,000
60,000x |
| 4. Kalaheo Water System, Kauai—To increase capacity of Kalaheo Water system in order to provide domestic-irrigation water to the farmers. | 200,000 |

Parks and Recreation

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| 5. Master Plan for parks and recreation development, Kauai—Master plan for parks, historical sites and recreation development, County of Kauai. | 45,000
45,000x |
| 6. Hanapepe Golf Course, Kauai—Incremental development of 18-hole golf course at Hanapepe. (No cane land is to be taken.) | 150,000
150,000x |
| 7. Waimea Athletic Field and Playground, Kauai—Land Acquisition and development of a new athletic field, playground equipment and restroom facilities. (Unexpended balances from Item V-A-3 of Act 38, SLH 1966 and Item N-70, of Act 155, SLH 1969, may be used for this purpose.) | 75,000 |
| 8. Hanapepe Recreational and Multi-Purpose Buildings and Equipment, Kauai—Development of new recreational and multi-purpose center. | 50,000
45,000x |
| 9. Lihue Stadium Complex, Kauai—Development of Lihue Stadium Complex. | 365,000
215,000x |
| 10. Wailua Golf Clubhouse, Kauai—Plans and construction of expansion of existing dining room. | 100,000 |
| 11. Poipu Beach Park, Kauai—Acquisition of land, construction of park facilities and other necessary improvements. To supplement prior appropriations. | 75,000 |
| 12. Salt Pond Park, Kauai—Plans and construction for the enlargement of the existing Salt Pond Beach Park to include a parking lot, additional restrooms, picnic facilities, and other necessary improvements. | 75,000 |
| 13. Spouting Horn, Koloa, Kauai—Plans, construction, and acquisition of land for the development of a parking lot, rest rooms, and all other necessary appurtenances. | 50,000 |

Drainage and Sewers

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| 14. Master plan for water, sewerage and drainage, Kauai—Preparation of master plans for water, sewerage and storm drainage facilities, County of Kauai. | 40,000
40,000x |
| 15. Wailua Sewer Plant Expansion - Phase II, Kauai—Plans for the expansion of the existing Wailua Sewer Treatment Plant from 0.50 M.G.D. average to 0.75 M.G.D. | 35,000
100,000f |
| 16. Drainage improvement along Hardy Street, Lihue, Kauai—Plans and construction of 48-inch diameter storm drain along Hardy Street. | 80,000 |

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17. Waimea Irrigation Systems, Kauai—Improvement of existing 1/2 mile of Menehune ditch.	10,000
Others	
18. Emergency Operating Center, Kauai—Plans for County Emergency Operating Center.	11,000
19. Educational Television-Mt. Kahili, Kauai—Construction of facilities for educational television, which shall consist of a one hundred-foot antenna tower and a building on Mt. Kahili, County of Kauai.	10,000f 25,000
Roads	
20. Barking Sands Road, Kauai—Construction of a paved road from Mana Camp to Polihale State Park.	115,000 110,000x
21. Reconstruction of Hulemalu Road and Kipu Road from Ni-umalu Road, Kauai, Rice Section to Kaumualii Highway via Menehune Fishpond Lookout, Kauai.	105,000

SECTION 2. The designated expending agency is authorized to delegate to other state or county agencies the planning and construction of projects under section 1 when it is determined by such agency that it is more advantageous to do so.

SECTION 3. The appropriations and authorizations in section 1 may include land purchase, plans, site preparation, improvements to land, construction, and necessary equipment as approved by the governor when riders to authorizations are not specific.

SECTION 4. All general obligation bond funds used for any highway project, land development project, or airport project, which funding is designated by the letter symbol (a), shall have the bond principal and interest reimbursed from the state highway fund, the land development special fund, or the airport revenue fund, respectively. Bonds issued for irrigation projects shall be reimbursed, as provided by section 174-21, Hawaii Revised Statutes.

SECTION 5. The department of transportation is authorized to issue airport revenue bonds for airport projects authorized by this Act to be financed by airport revenue bonds, in such principal amount as shall be required to yield the amounts appropriated by this Act from airport revenue bond funds for such projects, plus, if so determined by the department and approved by the governor, such additional amounts as may be deemed necessary by the department to pay interest on such revenue bonds during the construction period and for six months thereafter, to establish, maintain or increase reserves for the airport revenue bonds and to pay the expenses of issuance of such bonds. The aforementioned airport revenue bonds shall be issued pursuant to the provisions of Part III, Chapter 39, Hawaii Revised Statutes, as the same may be amended from time to time. The principal and interest of airport revenue bonds, to the extent not paid from the proceeds of such bonds, shall be payable solely from and secured solely by the revenue from airports and related facilities under the ownership of the State or operated and managed by the department and the aviation fuel taxes levied and paid pursuant to sections 243-4(a) (2) and 248-8, Hawaii Revised Statutes, as amended, or such part of either

thereof as the department may determine, including rents, landing fees and other fees or charges presently or hereafter derived from or arising through the ownership, operation and management of airports and related facilities and the furnishing and supplying of the services thereof. The expenses of the issuance of such airport revenue bonds shall to the extent not paid from the proceeds of such bonds be paid from the airport revenue fund. The governor, in his discretion, is authorized to use the airport revenue fund to finance those projects in section 1 where the method of financing is designated to be by airport revenue bond funds.

SECTION 6. The university of Hawaii is authorized to issue revenue bonds for the incremental development of university dormitory facilities and parking facilities as contained in section 1 hereof.

SECTION 7. The Hawaii housing authority is authorized to issue housing authority revenue bonds for housing authority revenue bond financed projects authorized by this Act, pursuant to provisions of section 103-7, Hawaii Revised Statutes. The expenses of the issuance of such housing authority revenue bonds and the principal and interest on such bonds sold shall not be a general obligation to the State of Hawaii.

SECTION 8. The governor shall determine when and the manner in which authorized projects shall be initiated. In releasing funds for projects, the governor shall consider the objectives of the user agency, its programs, the scope and level of the user agency's intended service; and the means, efficiency, and economics by which the project will meet the objectives of said user agency and the State. Agencies responsible for construction shall take into consideration the objectives of user agency, its programs, the scope and level of the user agency's intended service and construct the improvement to meet the objectives of said user agency in the most efficient and economical manner possible.

SECTION 9. The negotiation for the purchase of land by State agencies shall be subject to the approval of the governor. Private lands may be acquired for the purpose of exchange for federal lands when the governor determines that such acquisition and exchange are necessary for the completion of any herein or previously authorized projects.

SECTION 10. In case the amount specified for any capital improvement project shall not be wholly required to complete the work of such item or after it is definitely found by the expending officer that not more than a specified amount will be required to complete said work, such unrequired amount may be expended with the approval of the governor for any other capital improvement project authorized by the legislature, in this Act or in a prior year or which may be authorized by the legislature in the future.

SECTION 11. The sum of \$3,000,000 or as much thereof as may be necessary is hereby appropriated or authorized, as the case may be, from monies in the treasury received from general obligation bond funds, to the governor for project adjustment purposes of projects, which sources of funding are general

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obligation bond funds as authorized under section 1 hereof. General obligation bonds may be issued as provided by law to yield \$3,000,000 for project adjustment purposes as stated herein. The governor may make supplementary allotment from this fund but in no event shall the allotment or allotments be used to increase the intended scope of such projects.

SECTION 12. The governor may authorize the expenditure of funds for capital improvement projects not previously authorized or not itemized in section 1 to cope with unforeseen emergencies arising from elements such as fires and natural disasters and for any federal-aid portion of any capital improvement project itemized in section 1 where application for such aid has been made and approval has been denied, provided that such emergencies or denial of federal-aid create an urgent need to pursue a course of action which would be in the best interest of the State, provided further that the governor, to fund these projects, shall utilize savings from any of the projects contained in section 1, or if not available, utilize unallotted funds from any project contained in this Act, and provided further that the governor shall report to the session of the legislature next on all projects affected by provisions herein.

SECTION 13. Where the governor or any agency of any government unit is able to secure federal funds or other property made available under any Act of Congress, or any funds or other property from private organizations or individuals, to be expended in connection with or for the planning and/or construction of any program or works authorized by this Act, or otherwise, the governor or agency (with the governor's approval) shall have the power to enter into such undertaking with the proper offices or agencies of the federal government or private organization or individuals, if approved by the governor. While most federal-aid allocations are known and local matching funds are provided in this Act, there may be programs for which federal-local cost sharing is not yet determined. In such cases, the availability of federal funds shall be construed as a reduction of State costs whenever possible.

SECTION 14. In connection with all state park projects in section 1, the board of land and natural resources may use its present staff, summer student help, and such temporary personnel who shall be exempted from the provisions of chapters 76 and 77, Hawaii Revised Statutes, and who are unemployed and are duly registered as unemployed with the department of labor and industrial relations. The board may, upon approval of the governor, enter into contract for the necessary equipment, supplies, materials, labor, professional service and technical assistance to be used in the projects.

SECTION 15. Funds appropriated in Item F-165 of Act 155, Session Laws of Hawaii 1969, shall lapse as of July 1, 1970.

SECTION 16. Where appropriations or authorizations for department of education or university of Hawaii projects specify the number of units, classrooms, partitions, etc. and the amount appropriated or authorized is insufficient to plan for and construct the specified number, the agency may plan for and construct less than the number specified.

SECTION 17. In the event that funds are not allotted by the governor for a project in section 1 during the period ending June 30, 1974, authorizations and appropriations for such project shall lapse as of June 30, 1974; provided that authorizations and appropriations which supplement previously authorized projects shall not lapse.

SECTION 18. For any project jointly funded by state and county monies, state funds shall be used only when the county provides at least its pro rata share as indicated in the project authorization.

SECTION 19. If any portion of this Act or its application to any persons or circumstances is held to be invalid for any reason, then the legislature hereby declares that the remainder of the Act and each and every other provision thereof shall not be affected thereby. If any portion of a specific appropriation is held to be invalid for any reason, the remaining portion shall be independent of the invalid portion and such remaining portion shall be expended to fulfill the objective of such appropriation to the extent possible.

SECTION 20. The department of transportation is authorized to issue pursuant to the provisions of part III, chapter 39, Hawaii Revised Statutes, harbor revenue bonds or other harbor revenue obligations for harbor revenue bond financed projects authorized by this Act, in such principal amount as shall be required to yield the amounts appropriated by this Act from harbor revenue bonds for such projects, plus, if so determined by the department and approved by the governor, such additional amounts as may be deemed necessary by the department to establish, maintain, or increase reserves for such bonds or other revenue obligations and pay the expenses of issuance of such bonds or other revenue obligations. To the extent not paid from the proceeds of such revenue bonds or other revenue obligations, the expenses of the issuance of such harbor revenue bonds or other revenue obligations and the principal and interest on such bonds or other revenue obligations shall be paid or provided for from the harbor special fund. The governor, in his discretion, is authorized to use harbor special funds to finance these projects in section 1 where the method of financing is designated to be by harbor revenue bond funds.

SECTION 21. In the event the State should assume the direct operation of any non-public agency receiving State funds under the provisions of this Act, such funds shall be applied as a credit to the State against such capital costs as land, structures, and equipment, in acquiring that non-public agency.

SECTION 22. This Act, upon its passage and approval in the manner provided by the constitution of the State, shall take effect on July 1, 1970.

(Approved June 30, 1970.)

ACT 188

S. B. NO. 603

A Bill for an Act Relating to the District Courts.

Be It Enacted by the Legislature of the State of Hawaii:

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SECTION 1. The purpose of this Act is to provide for a reorganization of the district courts. It

- (1) Establishes a single district court for each county, with each district court holding sessions in rural areas at such places and as often as the respective district judges deem essential to the promotion of justice;
- (2) Establishes the district courts as courts of record, thereby eliminating the prior right to trial de novo at the circuit court level;
- (3) Provides for appeal to the supreme court from decisions of district courts;
- (4) Increases the jurisdiction of the district courts in civil cases from \$2,000 to \$5,000;
- (5) Provides that all district judges shall serve as full-time judges; and
- (6) Substitutes the term "district judge" for the term "district magistrate".

SECTION 2. Section 4-2, Hawaii Revised Statutes, is repealed.

SECTION 3. Section 641-1, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 641-1. From district judge; deposits of costs; procedure. Appeals upon the record shall be allowed from all decisions and judgments of district judges in all matters, whether civil or criminal. Such appeals may be made to the supreme court, whenever the party appealing shall file notice of his appeal and shall pay the costs accrued within thirty days and, if in a civil cause, shall deposit the costs for appeal as provided in chapter 607.

Within a reasonable time after an appeal has been perfected from a decision of a district judge, to the supreme court, it shall be incumbent upon the district judge to make a return thereof, together with all papers and exhibits filed in such case and all excess costs over and above the actual accrued costs earned in the case, which accrued costs shall be turned in by him as a state realization; provided, all costs deposited in a criminal case shall be held by the clerk of the supreme court subject to the final disposition of the cause.

It shall be the duty of the clerk of the supreme court to which an appeal has been made from the decision of any district judge, within a reasonable time after the case shall have been disposed of by the court, to transmit to the district judge from whose decision the appeal was made, a statement showing the disposition of the case by the supreme court."

SECTION 4. Section 641-19, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 641-19. Application; form. The application for the writ of error may be made, in person or by attorney, to the clerk of the supreme court and may be in substantially the following form:

In the Supreme Court of the State of Hawaii.

.....

v.

.....

[Form is continued on next page.]

To the Clerk of the Supreme Court:

Please issue a writ of error in the above entitled case to the Clerk of the Circuit Court of theCircuit (or to the Clerk of the District Court of theJudicial Circuit) on behalf of, returnable to the Supreme Court.

DATED:, 19....

.....

In Person

(or)

Attorney for

.....)."

SECTION 5. Section 641-20, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 641-20. Address of writ; form. The writ of error shall be addressed to the clerk of the court or registrar of the land court in which the judgment, order or decree was entered, and may be served upon him by mail, and shall be in substantially the following form:

In the Supreme Court of the State of Hawaii.

.....,

v.

.....

The State of Hawaii:

To the Clerk of the Circuit Court of theCircuit (or the Registrar of the Land Court or the Clerk of the District Court of theJudicial Circuit):

Application having been made on behalf offor a writ of error in the above entitled case, you are commanded forthwith to send to the Supreme Court the record in the case.

WITNESS the HonorableChief Justice of the Supreme Court, thisday of, 19....

.....
Clerk of the Supreme Court."

SECTION 6. Section 641-21, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 641-21. Return of writ; form. The return to the writ of error may be in substantially the following form indorsed on the writ:

To the Clerk of the Supreme Court:

The execution of the within writ of error appears by the record hereto annexed.

Dated, 19....

[Form is continued on next page.]

.....
 Clerk of the Circuit Court of theCircuit
 (or Registrar of the Land Court or Clerk of the District
 Court of theJudicial Circuit.)”

SECTION 7. Section 601-8, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 601-8. Practice of law forbidden.** Justices of the supreme court, judges of the circuit court, and full-time judges of the district court shall not engage in the practice of law during their terms of office.”

SECTION 8. Section 604-1, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 604-1. Judicial circuits; district judges; sessions.** There shall be established in each of the judicial circuits of the State of Hawaii a district court with the powers and under the conditions herein set forth, which shall be styled as follows:

- (a) For the First Judicial Circuit: The District Court of the First Circuit.
- (b) For the Second Judicial Circuit: The District Court of the Second Circuit.
- (c) For the Third Judicial Circuit: The District Court of the Third Circuit.
- (d) For the Fifth Judicial Circuit: The District Court of the Fifth Circuit.

There shall be appointed one or more district judges for each judicial circuit. The district court of the first circuit shall consist of eight judges, who shall be styled as first, second, third, fourth, fifth, sixth, seventh, and eighth judge, respectively. The district court of the second circuit shall consist of two judges, who shall be styled as first and second judge, respectively. The district court of the third circuit shall consist of two judges, who shall be styled as first and second judge, respectively. The district court of the fifth circuit shall consist of one judge. The chief justice may designate a judge in each circuit as the administrative judge for the circuit.

The chief justice may appoint per diem district judges as may be necessary. Such judges shall receive per diem compensation for the days on which actual service is rendered based on the monthly rate of compensation paid to a district court judge. For the purpose of determining per diem compensation in this section, a month shall be deemed to consist of twenty-one days.

The district courts shall hold sessions at such places in their respective circuits and as often as the respective district judges deem essential to the promotion of justice.”

SECTION 9. Section 604-2, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 604-2. Appointment; tenure; removal.** District judges shall be appointed by the chief justice of the supreme court. Each judge shall reside in the judicial circuit for which he is appointed and shall have been an attorney li-

censed to practice in all the courts of the State for at least five years. District judges shall hold office for a term of six years and until their successors are appointed and qualified; provided, that any judge may be summarily removed from office, and his commission revoked by the supreme court whenever the supreme court deems such removal necessary for the public good."

SECTION 10. Section 604-3, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 604-3. Disqualification, absence, vacancy. Whenever it is advisable, by reason of a vacancy in the office of district judge of any circuit, or by reason of the disqualification of any district judge, or his inability to attend to his duties by reason of illness or temporary absence, or for any other reason, the chief justice of the supreme court may designate the district judge of any other circuit to hear and determine any and all matters then or thereafter pending in the district court to which he is called for such purpose, and while so engaged, he shall have and exercise all of the powers of a regularly appointed judge of the circuit to which he is called.

SECTION 11. Section 604-4, Hawaii Revised Statutes, is repealed.

SECTION 12. Chapter 604, Hawaii Revised Statutes, is amended by adding a new section to be appropriately numbered and to read as follows:

"Sec. 604- Salary of district judges. The compensation of the district court judges of the various district courts of the State shall be eighty per cent of the compensation of a circuit court judge."

SECTION 13. Section 604-5, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 604-5. Civil Jurisdiction. The district courts shall have original and exclusive jurisdiction of all civil actions, except as otherwise provided, where the debt, amount, or damages, or the value of property claimed, does not exceed \$500. Except as aforesaid, such courts shall have concurrent jurisdiction in all civil actions, where the debt, amount, or damages, or the value of the property claimed, does not exceed \$5000. Attorney's commissions or fees, including those stipulated in any note or contract sued on, interest, and costs, shall not be included in computing the jurisdictional amount.

The district courts shall have original jurisdiction in all statutory proceedings as conferred by law upon district courts. The district courts shall try and determine all actions without a jury, subject to appeal according to law.

The district courts shall not have cognizance of real actions, nor actions in which the title to real estate comes in question, nor actions for libel, slander, defamation of character, malicious prosecution, false imprisonment, breach of promise of marriage, or seduction, nor of any civil matter required by law to be tried by a jury; nor shall they have power to appoint referees in any cause."

SECTION 14. Section 604-6, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 604-6. Ejectment proceedings. Nothing in section 604-5 shall preclude a district court from taking jurisdiction in ejectment proceedings where the title to real estate does not come in question at the trial of the action. If the defendant is defaulted or if on the trial it is proved that the plaintiff is entitled to the possession of the premises, the judge shall give judgment for the plaintiff and shall issue a writ of possession. In order to stay a writ of possession, the defendant may, within five days after an adverse judgment in the district court, file in such court and in the pending cause a bond in such sum as the presiding judge shall reasonably fix conditioned to pay to the plaintiff, who shall be the obligee in the bond, all damages which the plaintiff sustains by reason of the appeal of the cause in case the judgment of the district court is finally affirmed, together with the amount of the judgment."

SECTION 15. Section 604-7, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 604-7. Powers, witness fees. The district judges may: administer oaths to perpetuate testimony under commissions issued to them from other courts; issue commissions for the perpetuation of testimony to be used in controversies pending before them; grant continuances of proceedings before them; subpoena and compel the attendance of witnesses within the circuit where the district court is situated; subpoena and compel the attendance of witnesses without the circuit in which the district court is situated, provided that the subpoena is endorsed with proper words of authority by a circuit judge of the judicial circuit in which the district court is situated; render final judgments; alter any judgment within ten days following the date of its rendition for good cause shown by any party and after notice given to the opposite party; enforce judgments and punish contempts according to law; issue garnishee summons which shall be operative as to the garnishee throughout the judicial circuit in which the district court issuing the same is situated, except that where the garnishee of a government beneficiary is the comptroller of the State, the garnishee summons may be served and shall be operative outside of the judicial circuit within the State; in a criminal case, alter, set aside, or suspend a sentence by way of mitigation or otherwise upon motion or plea of a defendant made within thirty days after imposition of the sentence.

Every witness duly subpoenaed as provided in this section, other than a salaried county or state official or employee, shall be allowed the same attendance and mileage fees allowed witnesses subpoenaed before the circuit courts.

Any document requiring the signature of a district judge, in any cause or proceeding whatsoever in a district court, may be signed without, as well as within, the boundaries of the circuit in which the court is situated, excepting, however, without the State.

A summons or other writ issued by a judge or a district court may be served in the manner as provided by law, throughout the judicial circuit in which the district court is situated; provided the summons or other writ is issued by the judge of the district court of the circuit wherein the defendant resides."

SECTION 16. Section 604-8, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 604-8. Criminal, misdemeanors, generally. District judges shall have jurisdiction of, and their criminal jurisdiction is limited to, criminal offenses punishable by fine, or by imprisonment not exceeding one year whether with or without fine. They shall not have jurisdiction over any offense for which the accused cannot be held to answer unless on a presentment or indictment of a grand jury.

In any case cognizable by a district judge as aforesaid in which the accused has the right to a trial by jury in the first instance, the district judge, upon demand by the accused, for such trial by jury, shall not exercise jurisdiction over such case, but shall examine and discharge or commit for trial the accused as provided by law, but if in any such case the accused does not demand a trial by jury on the date of arraignment or within ten days thereafter, the district judge may exercise jurisdiction over the same, subject to the right of appeal as provided by law.”

SECTION 17. Section 604-9, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 604-9. Same; powers. District judges shall have power, subject to appeal according to law and except as otherwise provided in cases in which the accused has the right to and demands a trial by jury in the first instance, to try without a jury, and to render judgment in all cases of criminal offenses coming within their respective jurisdictions.

SECTION 18. Section 604-10, Hawaii Revised Statutes, is repealed.

SECTION 19. Section 604-11, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 604-11. Jurisdiction of district courts; ordinances. Jurisdiction is conferred upon the district courts to try all cases arising from the violation of ordinances in force in the counties and to impose the penalties in such ordinances prescribed for such offenses in like manner as their original jurisdiction is exercised under the general law.”

SECTION 20. Section 604-12, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 604-12. Offense committed outside of jurisdiction. Every district judge may issue a warrant for the arrest and examination of any person charged with an offense not within his jurisdiction, where the party accused is resident, or for the time being is found, within his circuit and upon satisfactory evidence of the probable guilt of the person, commit him to prison for trial at the ensuing term of the circuit court of the circuit.”

SECTION 21. Section 604-13, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 604-13. Arrest under indorsed warrant. Whenever any warrant of arrest has been issued by any court of competent jurisdiction, and the accused is beyond the jurisdiction of the court, it shall be lawful for the officer to whom the warrant is directed, to pursue and arrest the accused in any part of the

State; provided, that the warrant is first indorsed with proper words of authority from some circuit judge or district judge on the island where the actual arrest is made.”

SECTION 22. Section 604-17, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 604-17. Courts of record; testimony and proceedings. The district courts shall be courts of record. The district judges shall in all cases preserve in writing, on tape, or such other mechanical device as may be appropriate, the minutes, proceedings, and testimony of their trials, transactions, and judgments, and the facts upon which their decisions rest.”

SECTION 23. Section 604-18, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 604-18. Annual Report. The administrative judge of the district courts of each judicial circuit during the month of July of each year shall report to the chief justice the amount and kind of official business done in the circuit during the preceding year, the number of persons prosecuted, the crimes and misdemeanors for which the prosecutions were had, the results thereof, as well as the number, kind, and results of civil proceedings had in their respective courts, and such other matters and things as are required by the chief justice and in such form as is required by him.”

SECTION 24. Chapter 604, Hawaii Revised Statutes, is amended by adding a new section to be appropriately numbered and to read as follows:

“Sec. 604- Power to make and revise rules. The judges of the several district courts, with the approval of the supreme court, shall have power to make, promulgate, and from time to time revise and amend rules for regulating the practice and conducting the business of the district courts, in all matters not otherwise expressly provided; provided that in no case shall such rules purport to impose costs not expressly authorized by statute.”

SECTION 25. Section 606-1, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 606-1. Clerks of supreme court, circuit courts, and district courts; appointment and removal. There shall be a clerk of the supreme court and as many deputy clerks and assistant clerks as the business of the supreme court requires, appointed and removable by the justices of the supreme court. The clerk of the supreme court shall be ex-officio clerk of all the courts of record, and as such may issue process returnable in all such courts.

There shall be as many clerks of the circuit courts as may be necessary, appointed and removable by the judge or judges thereof, as the case may be. The respective clerks of the circuit courts shall be ex-officio clerks of all the courts of record, and as such may issue process returnable in all such courts.

There shall be as many clerks of the district courts as may be necessary, appointed and removable by the judge or judges thereof, as the case may be. The respective clerks of the district courts shall be ex-officio clerks of all the courts of records, and as such may issue process returnable in all such courts.

All duly appointed clerks of the district courts in the State shall have power to administer oaths to witnesses.”

SECTION 26. Section 606-4, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 606-4. Custody; disposition of exhibits. The clerks of the supreme, circuit, and district courts shall have the custody of all records, books, papers, moneys, exhibits, and other things pertaining to their respective courts.

The clerks shall have the authority and power, upon the written approval of a judge of the court in particular cases, to sell, destroy, or otherwise dispose of exhibits and things marked for identification, other than original files belonging to other actions, which have come into their possession or custody under this section, when such exhibits or things have not been already returned to their owners and when more than two years have elapsed since the final termination of the action to which the exhibits or things are related; provided that the clerk shall, if possible, first give notice in writing to the party or the attorney of the party who introduced the exhibits or things in evidence or left them in the custody of the court, of the things that are proposed to be disposed of, stating that the same are to be disposed of if not claimed and removed from the court by a day certain; and provided, further, that the clerk shall file an affidavit as to such notice and a list of the exhibits or things to be destroyed or otherwise disposed of under this section and the disposition thereof, with the case or action to which the same belong.

All moneys received from sales under this section shall be forthwith deposited with the state director of finance as government realizations.”

SECTION 27. Section 606-9, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 606-9. Reporters and interpreters. The judges of the circuit court of each judicial circuit, or a majority thereof, may appoint one or more interpreters, and one or more shorthand reporters.

The district judges of each judicial circuit may appoint one or more clerk reporters, and one or more interpreters as may be necessary.

All duly appointed shorthand reporters of the courts in the State may take depositions and administer oaths relative to the taking of the depositions.

Any one of the circuit judges or district judges may temporarily assign to any shorthand reporter or interpreter, appointed as aforesaid, any appropriate duties in any court of the State other than the one in which he is located. Nothing in this section shall prevent the employment by any one of the circuit judges or district judges aforesaid, of any shorthand reporter, interpreter, or clerk to serve in individual cases as they may arise, when necessary.

All duly appointed chief clerks, clerk-reporter supervisors, and clerk-reporters of the district courts in the State shall have power to take depositions and to administer oaths relative to the taking of the depositions.”

SECTION 28. Section 607-2, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 607-2. Fees to be accounted for. With the exception of such fees as are intended to reimburse officers for actual expenditures made by them, all judges', clerks', sheriffs', and deputy sheriffs' fees provided for in this chapter and accruing from any action pending in a court of record shall be deposited to the credit of the general fund of the State."

SECTION 29. Section 607-7, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 607-7. Deposit and payment of costs on appeal. All costs required to be paid upon the filing of any appeal or bill of exceptions shall be deposited with the clerk of the court from which the appeal is taken, or in which the bill of exceptions is allowed, which deposit shall be transmitted to the clerk of the appellate court together with the record of any such appeal or bill of exception. The deposit shall be made at the time of filing the notice of appeal or appeal or upon the allowance of the bill of exceptions."

SECTION 30. Section 608-2, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 608-2. District court, salaries, expenses, etc. The salaries of the district judges, clerks, and other assistants and the expenses of the district judges shall be paid by the State. Each of the judges shall have power to appoint such additional officers or employees as may be required by the courts and for which appropriations have been made by the legislature. Except as otherwise provided, such officers and employees shall be subject to part II of chapter 76 and part I of chapter 77."

SECTION 31. Section 608-3, Hawaii Revised Statutes, is repealed.

SECTION 32. Section 608-4, Hawaii Revised Statutes, is repealed.

SECTION 33. Section 608-5, Hawaii Revised Statutes, is repealed.

SECTION 34. Section 608-6, Hawaii Revised Statutes, is repealed.

SECTION 35. Section 608-7, Hawaii Revised Statutes, is repealed.

SECTION 36. Section 710-1, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 710-1. Complaint; form of warrant. When a complaint is made to any prosecuting officer of the commission of any offense, he shall examine the complainant, shall reduce the substance of the complaint to writing, and cause the same to be subscribed by the complainant under oath, which he is hereby authorized to administer. If the original complaint results from the issuance of a traffic summons by a police officer, the oath may be administered by another police officer or officers whose names have been submitted to the prosecuting officer and who have been designated by the chief of police to administer the same, which they are hereby authorized to administer. Upon presentation of the written complaint to the judge within whose circuit the offense is alleged to have been committed the judge shall issue his warrant, reciting the complaint and requiring the sheriff, or other officer to whom it is directed (except as provided in section 710-3), forthwith to arrest the accused and bring him before

the judge to be dealt with according to law; and in the same warrant may require the officer to summon such witnesses as are named therein to appear and give evidence at the trial. The warrant may be in the following form:

"To any police officer of thejudicial circuit, island of
....., State of Hawaii:

You are hereby commanded, on the information ofverified by oath, forthwith to arrest and take the body ofaccused of .
.....if he can be found, and forthwith have his body before me at the district courtroom ofat any time between the hours ofA.M. andP.M. of theday ofA.D. 19.... (to answer to the said accusations, or to show cause why he should not be committed for trial at the circuit court of theJudicial Circuit). And you are also commanded, having arrested the saidto summon as witnesses of accusationif they can be found, and to make due return of your proceedings upon this writ.

Given under my hand thisday of, A.D. 19....

.....Judge
District Court of the....Circuit"

SECTION 37. Section 710-7, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 710-7. Commitment; form of mittimus. In all cases of arrest for offenses that must be tried in the first instance before a jury, or that can be tried only on indictment by a grand jury, the judge in whose jurisdiction or on whose warrant the accused was arrested shall, upon the appearance of the accused, proceed to consider whether there is probable cause to believe that the accused is guilty of the offense with which he is charged. He shall reduce to writing the substance of the evidence adduced, with the names of the witnesses. If in his opinion the testimony does not warrant commitment for trial, he shall release the prisoner, noting that fact upon his docket. But if in his opinion there is probable cause to believe that the accused is guilty of the offense with which he is charged, he shall make out and deliver to a police officer a mittimus which may be in the following form:

"To, or any other police officer of thejudicial circuit, island of, State of Hawaii: It appearing to my satisfaction that there is probable cause to believe that, who was arrested foron the information of(or as the case may be) committed the offense charged: You are commanded to deliver him, the said, to the chief of police of the island of, or his authorized subordinate, who is hereby authorized to commit him to the jail of the said island for trial at the circuit court of thejudicial circuit (or the district court of thecircuit), and have you then there this writ with full return of your proceedings thereon.

Given under my hand thisday of, A.D. 19....

.....Judge
District Court ofCircuit."

ACT 189

SECTION 38. Section 710-8, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 710-8. Notice to county attorney or prosecuting attorney. In all criminal cases had before a district judge where there has been a commitment as provided in section 710-7, an appeal from the judgment, or a demand for a jury trial, the judge shall forthwith, without delay, send to the county attorney or to the prosecuting attorney, as the case may be, notice of the fact, stating briefly in the notice the nature of the case and action taken thereon, giving the name of the defendant and the date the records were sent to the circuit court or the supreme court."

SECTION 39. Wherever the words "district court magistrate", "district magistrate" or "magistrate" and words of like import appear in the Hawaii Revised Statutes, with reference to or in connection with the district courts, they are amended to read respectively, "district court judge", "district judge" or "judge" and words of like import, as the context requires.

SECTION 40. Wherever the word "district" appears in the Hawaii Revised Statutes with reference to or in connection with the geographical jurisdiction of the district courts, it is amended to read "circuit" as the context may require.

SECTION 41. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 42. This Act shall take effect on January 1, 1972.
(Approved June 30, 1970.)

ACT 189

S. B. NO. 1774-70

A Bill for an Act Relating to Collection Agencies.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 443-1 (1), Hawaii Revised Statutes, is amended to read as follows:

"(1) 'Board' means the collection agency board."

SECTION 2. Section 443-2, Hawaii Revised Statutes, is amended to read as follows:

"Section 443-2. Collection agency board, appointment, qualifications. There shall be a collection agency board in the department of regulatory agencies. The board shall consist of seven members, appointed by the governor in the manner prescribed by section 26-34, two of whom shall be licensees under this chapter. Each of the licensee members of the board must have been a licensed operator of a collection agency for three years prior to the date of his appointment or have had three years experience as an executive of a collection

* Edited accordingly

agency actively engaged in business as such in the State. No licensee member shall have any interest, directly or indirectly, as owner, partner, officer, director, agent, or stockholder of any collection agency in which the other licensee member has such an interest.”

SECTION 3. Section 443-3, Hawaii Revised Statutes, is amended to read as follows:

“Section 443-3. Organization of board; records, reports; meetings; quorum; effect of vacancy; compensation. Immediately upon the appointment and qualification of the original members, and annually thereafter, the board shall organize by the election of one member as chairman and one member as vice-chairman. The board shall keep a complete record of all its proceedings and shall present annually to the governor through the director of regulatory agencies a detailed statement of the receipts and disbursements of the board during the preceding year, with a statement of its acts and proceedings and such recommendations as the board may deem proper.

The board shall hold meetings for the transaction of business once or more in each period of two months, in suitable quarters provided by the director of regulatory agencies. A majority of the members of the board shall constitute a quorum for the transaction of any business or for the exercise of any power or for the performance of any duty of the board. A vacancy in the board membership shall not impair the right of the remaining members of the board to exercise any power or to perform any duty of the board, so long as the power is exercised or the duty performed by a quorum of the board.

No member shall receive any compensation for his services, but each shall be reimbursed for his necessary traveling expenses incurred in the performance of his duties.”

SECTION 4. Section 443-4, Hawaii Revised Statutes, is amended to read as follows:

“Section 443-4. Powers and duties of the board. In addition to any other powers and duties granted by this chapter the board shall:

- (1) Grant licenses to collection agencies pursuant to this chapter;
- (2) Deny, suspend, or revoke licenses for any cause or violation prescribed by this chapter;
- (3) Make, amend, or repeal such rules and regulations as may be reasonable and necessary for the enforcement of this chapter, and for the examining and licensing of applicants;
- (4) Enforce this chapter and rules and regulations adopted pursuant thereto.”

SECTION 5. Section 443-5, Hawaii Revised Statutes, is repealed.

SECTION 6. Section 443-6, Hawaii Revised Statutes, is amended to read as follows:

“Section 443-6. Executive secretary; other assistants.

(a) Subject to chapters 76 and 77 the director of regulatory agencies may employ and remove such administrative and clerical assistants as the board may require and prescribe their powers and duties;

(b) (1) The department shall employ an executive secretary of the board whose position shall be subject to chapters 76 and 77;

(2) The executive secretary shall, under the supervision of the board, administer this chapter and the rules and regulations and orders established thereunder and perform such other duties as the board may require; he shall attend but not vote at all meetings of the board; he shall be in charge of the offices of the board and responsible to the board for the preparation of reports and the collection and dissemination of data and other public information relating to collection agencies;

(3) The board may, by written order filed in its office, delegate to the executive secretary such of its powers or duties as it deems reasonable and proper for the effective administration of this chapter, except the power to make rules or regulations. The delegated powers and duties may be exercised by the executive secretary in the name of the board.”

SECTION 7. Section 443-7(5), Hawaii Revised Statutes, is amended to read as follows:

“(5) The applicant for a collection agency license, or the renewal thereof, shall apply therefor in writing, under oath, upon blanks furnished by the board, and shall state the full name and residence address of the applicant and the business name and address where he will conduct his collection agency, and in case of a partnership, the full name and residence address of each partner, and in case of a corporation, the full name and residence address of each of its officers and directors with at least one of whom has been a resident of the State for more than one year prior to the date of application.”

SECTION 8. Section 443-10(b), Hawaii Revised Statutes, is amended to read as follows:

“(b) All applications shall either be granted or set for hearing in accordance with chapter 91 within fifteen days after the first meeting of the board following the receipt thereof by the board.”

SECTION 9. Section 443-15, Hawaii Revised Statutes, is amended to read as follows:

“Section 443-15. Assignability of licenses; procedure upon change of name or business location. Licenses granted under this chapter are not assignable. Upon change of business name or removal from the location stated in any license issued under this chapter, the licensee shall, within five days thereafter present his license and full information regarding the change to the board, who

shall issue an amended license conforming to the facts and make an appropriate entry in its records.”

SECTION 10. Section 443-20, Hawaii Revised Statutes, is amended to read as follows:

“Section 443-20. Statements are confidential. Any statement of any applicant or licensee required by the terms of this chapter to be filed with the board shall be confidential and shall not become a public record, but it may be introduced in evidence in any suit, action, or proceeding in any court or in any proceeding involving the granting or revocation of the license of any licensee.”

SECTION 11. Section 443-21, Hawaii Revised Statutes, is amended to read as follows:

“Section 443-21. Investigation of complaints. The board shall upon the sworn complaint in writing of any person specifying in detail the charges against a licensee, investigate the actions of any licensee, alleged to have violated this chapter, and for that purpose only the licensee shall make available to the board, his offices and place of business, books, accounts, records, papers, files, safes, and vaults which are necessary to the investigation of that particular complaint.”

SECTION 12. Section 443-23, Hawaii Revised Statutes, is amended to read as follows:

“Section 443-23. Fees. A licensee shall not collect, or attempt to collect, any collection fee or attorney’s fee or commission from any debtor; provided however, attorney’s fee or commission may be collected after filing of a suit against any debtor and such fee or commission shall not be in excess of twenty-five per cent of the unpaid principal balance. All attorney’s fees or commissions collected by a licensee shall be remitted to the attorney and no portion of said collection shall be retained by the licensee.”

SECTION 13. Section 443-26, Hawaii Revised Statutes, is amended to read as follows:

“Section 443-26. Denial, suspension, or revocation of license; procedure; appeal. The board shall not deny any application for an original or renewal license or initiate any disciplinary action against any licensee except for probable cause. Before denying, suspending, or revoking any license, the charges against the licensee shall be investigated by the board. If action for denial, suspension, or revocation is determined upon, a hearing shall be held in accordance with chapter 91. The hearing on the charges shall be held at such time and place as the board prescribes. The board may issue subpoenas and bring before it any person or relevant book or writing in this State, swear witnesses and take the testimony of any person by deposition, with the same fees and mileage and in the same manner as prescribed by law in judicial proceedings in courts of record of the State in civil cases. All evidence shall be under oath. Any party to any hearing shall have the right of subpoena to compel the attendance of witnesses and to cause the production of any books and writings in his behalf. If the board determines that any applicant is not qualified to receive a license, a license shall not be granted, and if the board determines that any li-

ACT 190

censee is guilty of a violation of any of the provisions of this chapter, his license may be suspended or revoked by the board; provided that four members of the board concur in such determination. Any order denying a license, or suspending or revoking a license shall be rendered no later than fifteen days after the conclusion of the hearings. Any person aggrieved thereby may appeal to the circuit court of the county in which the applicant resides, or where the licensee has his principal place of business in the manner provided in chapter 91."

SECTION 14. The first two sentences of section 443-27, Hawaii Revised Statutes, are amended to read as follows:

"If the board revoked a license or if it determines that a licensee is insolvent, the board may appoint a conservator to take possession of the licensee's books, accounts, records, papers, files, safes, vaults, property used in connection with the business, and the trust bank account in which customer funds are deposited. If the licensee disagrees with the determination of insolvency made by the board, he may request a hearing in accordance with chapter 91."

SECTION 15. Section 443-30, Hawaii Revised Statutes, is amended to read as follows:

"**Section 443-30. Disposition of receipts.** All fines and penalties provided for in this chapter shall be paid to the board by checks payable to the State which shall be forwarded to the director of finance, and these monies, together with all license fees and any other fees received from collection agencies, shall be deposited to the credit of the general fund."

SECTION 16. Chapter 443, Hawaii Revised Statutes, is amended by deleting the phrases "collection agency advisory board", "commissioner of the collection agencies" or "commissioner" wherever they occur and substituting in lieu thereof the word "board".

SECTION 17. This Act shall take effect upon its approval.
(Approved June 30, 1970.)

ACT 190

S. B. NO. 174

A Bill for an Act Establishing a State Commission and County Committees on the Status of Women.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

STATUS OF WOMEN

Section -1. Findings and purpose. The legislature finds that the work of the governor's commission on the status of women, established by the governor by executive order on May 15, 1964, demonstrates the need for a continuing body to aid in the implementation of its recommendations, to develop long-range goals, and to coordinate research planning, programming, and action on

the opportunities, needs, problems, and contributions of women in Hawaii in (1) education, (2) homemaking, (3) civil and legal rights, (4) labor and employment, and (5) expanded community horizons. It is the purpose of this chapter to provide for a statewide program, on a permanent and continuing basis, on the status of women in Hawaii.

Section -2. State commission on status of women: membership, organization, etc. There is created a State commission on the status of women, within the department of budget and finance for administrative purposes, which shall consist of not fewer than fifteen nor more than twenty-one members. The membership shall include, ex-officio, a representative of the attorney general, the chairman of the commission on children and youth, the superintendent of education, the president of the university of Hawaii, the director of labor and industrial relations, the director of personnel services, and the director of social services. The remaining members shall be appointed by the governor in accordance with section 26-34. One-third of the appointed members shall be appointed initially for the term of four years, one-third for the term of three years, and one-third for the term of two years, and thereafter the terms of office of each member shall be four years. Of the appointed members there shall be at least one member from each of the counties of Hawaii, Maui, and Kauai. The members shall serve without compensation but shall be reimbursed for their necessary expenses in attending meetings of the commission and in the discharge of their duties. The members shall be selected on the basis of their interests and knowledge in, and their ability to make contributions to, the solution of problems relating to the status of women. The chairman shall be elected annually from the non-governmental members of the commission. There shall be no less than four meetings of the commission each year to be held at times and places agreed upon by the commission.

Section -3. Duties of commission. The commission shall: (1) Act as a central clearing house and coordinating body for governmental and non-governmental activities and information relating to the status of women;

- (2) Accumulate, compile, and publish information concerning instances of actual discrimination, and discrimination in the law, against women;
- (3) Cooperate with the department of labor and industrial relations and appropriate federal offices and agencies in correcting unlawful employment practices involving discrimination because of sex;
- (4) Create public awareness and understanding of the responsibilities, needs, potentials, and contributions of women as homemakers, workers, and active participants in community life and of the importance of each of these roles in the changing society;
- (5) Recommend legislative and administrative action on equal treatment and opportunities for women;
- (6) Seek improvements in educational and counseling programs and policies to meet the needs of girls and women in order better to prepare them for their roles in the home and community;

- (7) Encourage a long-range program of education of women in their political rights and responsibilities, particularly with respect to their voting duties;
- (8) Maintain contacts with appropriate federal, State, local and international agencies concerned with the status of women;
- (9) Cooperate with national groups on the status of women and arrange for participation by representatives of the State in White House conferences and other national conferences from time to time;
- (10) Administer funds allocated for its work; be authorized to accept, disburse, and allocate funds which may become available from other governmental and private sources; provided that all such funds shall be disbursed or allocated in compliance with any specific designation stated by the donor and in the absence of such specific designation, such funds shall be disbursed or allocated on projects related to any of the purposes of this chapter; and
- (11) Submit an annual report with recommendations to the governor and the legislature.

Section -4. County committees on status of women, membership, organization, etc. The mayor of each county shall appoint a county committee on the status of women charged with the duty and responsibility of developing such information as the State commission on the status of women requires or as such committee deems advisable concerning the status of women within the respective counties. The committees shall submit to the State commission, plans and proposals affecting the status of women in the several counties. Each county committee shall endeavor to secure the widest possible citizen participation in its efforts and for this purpose may utilize existing public or private organizations. The membership of each county committee shall include, ex-officio, the county attorney or corporation counsel; the senior county representative of the commission on children and youth; and the county representative of the commission on the status of women. The other members shall be selected on the basis of their interest and knowledge in, and their ability to make contributions to, the solution of problems relating to the status of women within the county and their knowledge of local conditions. The chairman shall be elected annually from the non-governmental members of the committee. One-third of the non-governmental members of the county committees shall be appointed initially for the term of four years, one-third for the term of three years, and one-third for the term of two years, and thereafter the terms of office of each member shall be four years. Each county committee shall meet at least four times a year. The members of the county committees shall receive no compensation for their services. The respective county legislative bodies are authorized to make appropriations to meet the necessary expenses of such committees.

SECTION 2. There is hereby appropriated out of the general revenues of the State of Hawaii the sum of \$40,000, or so much thereof as may be neces-

sary, to the department of budget and finance to be used for contractual services for the purpose of this Act.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 2, 1970.)

ACT 191

S. B. NO. 815

A Bill for an Act Relating to the Creation of a Joint Committee for the Comprehensive Statewide Planning and Development of Human Resources and Making an Appropriation Therefor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. **Purpose.** The policy of the State, in the area of human resources is to provide the best quality of life to the greatest number of its residents. Such a goal can only be attained through a constant re-evaluation of the programs, both private and public, relating to human resources. It is the purpose of this Act to establish a joint interim committee to study and review the existing programs on human resources and to recommend a comprehensive statewide plan for the proper development of human resources of the State.

SECTION 2. **Committee; appointment.** There is created a joint interim committee to be known as the "statewide planning and development committee for human resources", composed of eleven members. The president of the senate and the speaker of the house of representatives shall each appoint three members to the committee, and the governor shall appoint five members and name the chairman of the committee.

SECTION 3. **Duties.** The committee shall review the past and current programs of the federal, state and county governments concerning human resources for the purpose of developing a coordinated program covering the entire complex of interrelated activities required to ensure the optimal conservation of human resources with minimum fragmentation, discontinuity and duplication of services.

SECTION 4. **Compensation.** The members of the committee shall serve without pay but shall be reimbursed for necessary expenses.

SECTION 5. **Appropriation.** There is hereby appropriated from the general revenues of the State \$5,000 or so much thereof as may be required for the purposes of this Act.

SECTION 6. Approval. This Act shall take effect upon its approval.

(Approved July 2, 1970.)

ACT 192

S. B. NO. 1170-70

A Bill for an Act Relating to the State Foundation on Culture and the Arts.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to establish the State foundation on culture and the arts on a permanent basis.

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SECTION 2. Section 2 of Act 269, Session Laws of Hawaii 1965, is amended to read as follows:

"Establishment of foundation. There is hereby created a State foundation on culture and the arts composed of nine members to be appointed and removed by the governor. The governor shall appoint the chairman of the foundation from among the members thereof. The members of the foundation shall serve without compensation, but they shall be reimbursed for travel and other necessary expenses in the performance of their official duties.

The foundation shall be placed within the department of budget and finance."

SECTION 3. Section 5 of Act 269, Session Laws of Hawaii 1965, as amended by Act 50, Session Laws of Hawaii 1969, is amended to read as follows:

"Effective date. This Act shall take effect upon its approval."

SECTION 4. This Act shall take effect upon its approval or on June 30, 1970, whichever is earlier.

(Approved July 2, 1970.)

ACT 193

S. B. NO. 1262-70

A Bill for an Act Relating to the Kamehameha Day Celebration Commission.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 8-5, Hawaii Revised Statutes, is amended to read as follows:

"Section 8-5. Kamehameha Day Celebration Commission. There shall be a commission to be known as the Kamehameha day celebration commission which shall consist of twenty-two members to be appointed by the governor in the manner provided by section 26-34, such appointments to be made from the following organizations with at least one member from each organization:

- (1) The order of Kamehameha;
- (2) The Kaahumanu society;
- (3) The Hale o na Alii o Hawaii;
- (4) The Daughters and Sons of Hawaiian warriors;
- (5) The Daughters of Hawaii;
- (6) The Kamehameha schools alumni association;
- (7) The Hui Opio;
- (8) The state association of Hawaiian civic clubs;
- (9) The Hawaiian lei sellers' association;
- (10) The Waimanalo homesteaders' association;
- (11) The Kapahulu music club;

- (12) The Nanakuli homesteaders' association;
- (13) The native sons and daughters of Hawaii;
- (14) The Hui Holo Pa-u Me Na Hoa Hololio;
- (15) The Papakolea homesteaders' association.

In addition the governor shall appoint one member from each of the following islands; Kauai, Maui, Molokai, Oahu and Hawaii.

The terms of all appointments shall be four years. The governor shall appoint the chairman of the commission from among the members.

The members of the Kamehameha day celebration commission shall serve without compensation, but shall be entitled to reimbursement for travel and necessary expenses while attending meetings and while in discharge of their duties. The funds appropriated for the purposes hereof shall be disbursed on warrants of the State comptroller, based on vouchers approved by the chairman of the commission.

The commission shall have charge of all arrangements for the celebration each year on June 11, generally observed throughout Hawaii Nei as the anniversary of the birth of King Kamehameha I, and recognized as such under section 8-1. The commission may appoint committees from among its membership and delegate such powers and duties to such committees as it shall determine.

However, if any committee is appointed for Hilo, Hawaii, no additional committee shall be appointed for the Hamakua or Kau districts, but celebration activities in those districts shall be in charge of the Hilo committee so appointed."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved July 2, 1970.)

ACT 194

S. B. NO. 1329-70

A Bill for an Act Relating to Assignment of Group Life Insurance Policies.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

* Edited accordingly

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"Sec. 431- . Group life; assignment of policies. Subject to the terms of the policy, or pursuant to an agreement between the insured, the group policyholder, and the insurer, any person insured under a group life insurance policy may make to any person, other than the policyholder, an assignment of all or any part of the incidents of ownership conferred on him by the policy or by law, including specifically, but not by way of limitation, the right to exercise the conversion privilege and the right to name a beneficiary."

SECTION 2. This Act shall take effect upon its approval.

(Approved July 2, 1970.)

ACT 195

S. B. NO. 1566-70

A Bill for an Act Relating to the Protection of Indigenous Fish, Bird, Animal, and Vegetable Life.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 187, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately numbered and to read as follows:

"Sec. 187- . Animal species advisory commission. (a) There is established within the department of land and natural resources an animal species advisory commission which shall serve in an advisory capacity to the fish and game division. The commission shall consist of eleven members to be appointed by the governor in the manner provided in section 26-34. The chairman of each fish and wildlife advisory committee established pursuant to this chapter and the chief of the division of fish and game shall serve as members of the commission. Six of the members shall be scientists in the fields of botany, mammology, ichthyology, entomology, ornithology, and invertebrate zoology. The commission shall select its own chairman.

(b) The animal species advisory commission shall advise the fish and game division on every proposal for the deliberate introduction of a species of animal by the department into any habitat within the State, whether the introduction proposed is from without the State into the State or from one area in the State into another area in the State.

(c) The animal species advisory commission shall also advise the fish and game division of any matter affecting fishing or hunting, and fish and wildlife conservation, including proposed rules and regulations. The commission may hear such persons and acquire such information as it desires and shall communicate its findings and recommendations to the division of fish and game.

Sec. 187- . Introduction of species of animals. (a) No species of animal shall be deliberately introduced by the department under the provisions of chapter 187 into any habitat within the State, whether the introduction is from without the State into the State or from one area in the State into another area in the State unless the introduction is recommended by the fish and game division and authorized by rules and regulations of the department of land and natural resources, promulgated pursuant to chapter 91.

(b) The fish and game division in determining whether to recommend the

deliberate introduction of a species of animal shall make the following findings after consultation with the animal species advisory commission:

- (1) The factors which limit the distribution and abundance of the species in its native habitat have been studied and its probable dispersal pattern appraised;
- (2) Whether in the area where the species is proposed to be introduced there is or had been stock of a desirable, ecologically comparable indigenous species which can be increased or rehabilitated by re-introduction or by encouraging extension of its range.
- (3) Whether the species proposed to be introduced would threaten the existence and stability of any indigenous species as predator; competitor for food, cover, or breeding sites; or in any other way arising from its characteristics and ecological requirements;
- (4) The availability of socially acceptable methods of eliminating the species or keeping it under control in the area where it is proposed to be introduced and in adjoining areas;
- (5) The extent to which the species will enhance the economic and aesthetic values of the area where it is proposed to be introduced.
- (6) That the individuals to be introduced are free of communicable diseases and parasites and that there is no reason to believe that any communicable disease or parasite constitutes an important factor in the control of population; and
- (7) That there is no foreseeable risk of conflict on account of the introduction with land use policies in the area where a species is proposed to be introduced or in adjoining areas to which the species might spread.

(c) Before any species of animal is deliberately introduced, under the provisions of this chapter, into a habitat, the suitability of the introduction shall be tested if there is available an experimental area which can be fully controlled with a habitat typical of the area where the species is proposed to be introduced.

(d) When a species of animal is deliberately introduced into a habitat under the provisions of this chapter and until the species becomes established there on a stable basis, the fish and game division shall conduct studies of the introduced species in its new habitat, including studies of its rate of spread and impact on the habitat.

(e) Any person who violates this section or any rule or regulation promulgated pursuant to this section shall be subject to the penalties provided by section 187-20.

(f) The term 'indigenous', as used in this Act, includes plant and animal life (including fish and fowl), and organisms produced, growing or living naturally in the various islands of Hawaii without having been brought here by man.

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Sec. 187- . Fish and wildlife advisory committees. (a) There is established in each of the counties of the State, a fish and wildlife advisory committee. Each committee shall be composed of members of the board of land and natural resources from the county, who shall serve ex officio and shall be non-voting members, and five members appointed by the governor in accordance with section 26-34, Hawaii Revised Statutes, who shall be knowledgeable in the fishing, hunting, and conservation of fish and wildlife. The members shall serve for two year terms, except that two of the members initially appointed shall serve for one year terms. Each committee shall select its own chairman from its voting members, and three voting members shall constitute a quorum. Members of the committees shall receive no compensation but shall be reimbursed by the board of land and natural resources for all necessary expenses, including stenographic services.

(b) Functions and duties of committees. A committee shall meet at the call of its chairman or of any three of its members for the consideration of any matter affecting fishing or hunting and fish and wildlife conservation within the county, including proposed rules and regulations. Each committee may hear such persons and acquire such information as it desires and shall communicate its findings and recommendations to the division of fish and game.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.
(Approved July 2, 1970.)

ACT 196

S. B. NO. 1920-70

A Bill for an Act to Amend Section 249-18 Relating to Disposition of Highway Taxes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 249-18 of the Hawaii Revised Statutes, is hereby amended by adding a new item to be numbered 6 and to read as follows:

“(6) For purposes and functions connected with mass transit.”

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes may exclude the underscoring.*

SECTION 3. This Act shall take effect upon its approval.
(Approved July 2, 1970.)

ACT 197

S. B. NO. 1921-70

A Bill for an Act to Amend Section 243-6, HRS, Relating to Disposition of Fuel Taxes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 243-6, HRS, is hereby amended by adding a new item (6) to read as follows and by renumbering the present item (6) to (7):

* Edited accordingly

“(6) For purposes and functions in connection with mass transit.

(7) No expenditure shall be made, out of the revenues paid into any such fund, which will jeopardize federal aid for highway construction.”

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes may exclude the underscoring.*

SECTION 3. The Act shall take effect upon its approval.

(Approved July 2, 1970.)

ACT 198

H. B. NO. 65

A Bill for an Act Making an Appropriation for a System of Mass Public Transportation on Oahu.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Legislative findings and declaration of purpose. Air pollution and congestion are serious problems that confront the city and county of Honolulu. These problems are urgent ones and unless they are expeditiously dealt with they may result in even larger, more serious problems that will require vast outlays of capital.

Even now, vast sums are needed to remedy the problem. While the problem is local in nature, the legislature finds it in the public interest to assist in the implementation of a system of mass public transportation to be developed in coordination with the total transportation system plan for the city and county of Honolulu.

SECTION 2. There is appropriated out of moneys in the treasury from general obligation bond funds the sum of \$500,000, or so much thereof as may be necessary, for the implementation of a system of mass public transportation on Oahu. The director of finance is authorized to issue general obligation bonds of the State in the amount of \$500,000 for the purpose of this Act.

SECTION 3. There is hereby established a mass transit review board to consist of the governor, the director of transportation, and the director of planning and economic development. The funds appropriated by this Act shall be expended by the governor for implementation or partial implementation of any proposal or proposals made by any county with a population of over 100,000 which would aid in the establishment of a mass transit system provided that any such proposal shall first be approved by a majority of the mass transit review board.

SECTION 4. The sum appropriated shall lapse if not expended prior to June 30, 1971.

SECTION 5. This Act shall take effect upon its approval.

(Approved July 2, 1970.)

* Edited accordingly

A Bill for an Act Relating to Usury and Amending Chapter 478, Hawaii Revised Statutes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. A swelling demand for business capital in recent years has resulted in sharply increased borrowing costs. Institutional lenders have become increasingly selective in making loans. Hence, to inflexibility of a local usury restriction against a background of nation-wide competition for money inevitably leads to the reluctance in many cases of financial institutions to make business loans where there is doubt as to whether the usury prohibition would apply. Money which could otherwise be made available locally for business purposes is thereby diverted for use elsewhere. Nearly half of the other states, including New York and Illinois have exempted corporations or business transactions from the operation of their usury laws. The theory of these laws is that corporate management is deemed sufficiently sophisticated and to have broad enough access to multiple sources of funds that it will not unknowingly become the victim of an unscrupulous lender. It is therefore in the public interest that the usury law be amended so as to provide for a corporate exemption while continuing to accord the protection of the law to individuals, and thereby enhance Hawaii's position as an investment area.

SECTION 2. Chapter 478, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Section 478- . Corporations prohibited from interposing defense of usury. No corporation shall interpose the defense or state a claim, of usury in any action on a contract or promissory note, the principal amount of which exceeds the sum of \$750,000. The term corporation, as used in this section, shall be construed to include all associations, and joint-stock companies having any of the powers and privileges of corporations not possessed by individuals or partnerships.

The provisions of section 478-6 shall not apply to parties to contracts or holders of promissory notes, made by corporations the principal amount of which exceeds the sum of \$750,000."

SECTION 3. This Act shall take effect upon its approval.

(Approved July 2, 1970.)

A Bill for an Act Relating to Medical Care, Services, and Supplies under the Workmen's Compensation Law.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 386-1, Hawaii Revised Statutes is amended by adding new definitions to read as follows:

"Medical care", "medical services", or "medical supplies", means every type of care, treatment, surgery, hospitalization, attendance, service, and sup-

plies as the nature of the work injury requires, and includes such care, services and supplies rendered or furnished by a licensed or certified physician, dispensing optician, podiatrist, physical therapist, nurse, or masseur.

“Physician” includes a doctor of medicine, a dentist, a chiropractor, an osteopath, a naturopath, and an optometrist.”

SECTION 2. This Act shall take effect upon its approval.

(Approved July 2, 1970.)

ACT 201

H. B. NO. 1446-70

A Bill for an Act Relating to Compensation of Prisoners.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 353-15 of the Hawaii Revised Statutes is amended to read as follows:

“Section 353-15. Cash and clothing furnished discharged prisoner, when. Upon the discharge or parole of any prisoner who has undergone a commitment or sentence of one year or more, he shall be furnished by the department of social services to be administered by the Board of Pardons and Paroles with funds of not more than \$100 and clothing sufficient to meet his immediate needs. The expenditures so made by the department shall be included by it among the accounts for cost and maintenance of prisoners.”

SECTION 2. Section 353-24 is amended to read as follows:

“Section 353-24. Director to fix prisoners’ compensation. The director of social services may by rule classify, grade, and fix earnings to be paid to prisoners who may be confined in any correctional facilities of the State of Hawaii.”

SECTION 3. Section 353-25 is amended to read as follows:

“Section 353-25. Compensation for labor or training by prisoners. Every prisoner who is working within a state correctional facility or who is in such training or educational programs as the director or his agent, pursuant to law prescribes, may be allowed such graduated sums of money not exceeding \$5 and not less than \$2 per day as the director of social services by rule may determine.”

SECTION 4. Section 353-27 is amended to read as follows:

“Section 353-27. Custody of moneys; accounts for prisoners, etc. All sums collected under section 353-26 and all monies confiscated from prisoners during their incarceration shall be deposited by the department of social services in an individual bank account to the credit of the prisoner, and all interest paid thereon by the bank shall be credited by the bank to the credit of each prisoner. The department shall maintain individual ledger accounts for each prisoner and shall issue to each prisoner a quarterly statement showing credits and debits.”

SECTION 5. Section 353-28 is amended to read as follows:

"Section 353-28. Withdrawals; forfeitures; etc. The department of social services shall allow any prisoner under its direction to draw from funds in his account such amounts and for such purpose as it may deem proper, and the department shall, upon the parole or discharge of a prisoner, pay to him any money to which he may be entitled under sections 353-24 to 353-31. Upon the death of any prisoner during his incarceration, all funds to which he may have been entitled shall be distributed as provided by law in the same manner as his other property."

SECTION 6. Section 353-29 reading as follows is repealed:

"Section 353-29. To what prisoners sections not applicable. Sections 353-24 to 353-31 shall not apply to any prisoner who is held in prison until and after he has served at least three months of the term of his sentence."

SECTION 7. Section 354-2 (1) is amended to read as follows:

"Section 354-2. Establishment of industries at the state prison and other correctional facilities. The department of social services shall, with the advice and assistance of the department of planning and economic development, be responsible to study and evaluate any proposed or existing correctional industrial enterprise to determine if the enterprise conflicts with the orderly and planned economic development of the State. The department of social services shall:

- (1) Introduce productive industrial and agricultural enterprises in the prisons and institutions under the jurisdiction of the administrator of the corrections division in such volume and of such kinds as to eliminate unnecessary idleness among the inmates and to provide diversified work activities and pay to assigned inmates a daily wage of not more than \$5 nor less than \$2.
- (2) Determine the advisability and suitability of establishing, expanding, diminishing, or discontinuing any industrial or agricultural enterprise involving a gross annual production of more than \$25,000 value, but in no case more than \$350,000 value, and authorize or prohibit such action. The department shall determine the gross annual production, within the limit set above, of each new enterprise at the time of its establishment. The annual production so set shall not be increased until a public hearing concerning the proposed increase has been held before the department. The department shall annually adjust the maximum gross annual production value of \$350,000 permitted for each enterprise, the purpose of such adjustment being to keep the limit in balance with changes in population of state institutions and changes in cost of production and any conflict with private business.

An industrial enterprise with a gross annual production of over \$25,000 shall not be established without a public hearing. Public notice of the hearing shall be given prior to the hearing. The department may hold public hearings on any subject within its jurisdiction."

SECTION 8. Statutory material to be repealed is bracketed. New mate-

rial is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material or the underscoring.*

SECTION 9. This Act shall take effect on July 1, 1970.

(Approved July 2, 1970.)

ACT 202

H. B. NO. 2093-70

A Bill for an Act to Amend Subtitle 1 of Title 6, HRS, by Adding Thereto a New Chapter Entitled, "Indebtedness of the Counties, Exclusions from the Funded Debt Thereof and the Certification of such Exclusions".

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Subtitle 1 of Title 6, Hawaii Revised Statutes, is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

"INDEBTEDNESS OF THE COUNTIES, EXCLUSIONS FROM THE FUNDED DEBT THEREOF AND THE CERTIFICATION OF SUCH EXCLUSIONS.

"Section -1. Definitions. As used in Sections -1 through -6, the following words and terms shall have the following meanings or inclusions:

"'Chairman of the finance committee' shall mean the chairman of the finance committee of the council of the county, or if the council of the county does not have a finance committee, the member of the council appointed by the council to perform the functions required by this chapter to be performed by the chairman of the finance committee of the council.

"'Corporation counsel' shall mean the chief legal advisor or legal representative of the county.

"'County' shall include each county of the state, including the City and County of Honolulu.

"'Director of finance' shall mean the director of finance of the county, or if the county does not have a director of finance, the officer of the county in whom is vested the functions and powers of maintaining the treasury of the county and issuing and selling, paying interest on and redeeming bonds of the county.

"'Fiscal year' shall mean the fiscal year of the county as defined in Section 46-41 of the Hawaii Revised Statutes.

"'Special assessment bonds' shall mean bonds issued under special improvement statutes when the only security for such bonds is the properties benefited or improved or the assessments thereon.

"As used in Sections -1 through -6, the words or terms 'bonds', 'general obligation bonds', 'revenue bonds', 'user tax', 'net revenue' and 'net user tax receipts' shall have the respective meanings and inclusions given to such words and terms in Section 3 of Article VI of the Constitution.

* Edited accordingly

“Section -2. Determination of Funded Debt. Within ninety days after the first day of each fiscal year, the director of finance of each county shall ascertain and set forth in a tabular summary the total indebtedness of the county outstanding and unpaid as of the first day of such fiscal year. The summary shall include the following:

- “1. An itemization of the total principal amount of all general obligation bonds, revenue bonds, special assessment bonds and all other bonds of the county outstanding and unpaid, including bonds which may be excluded under clauses (a), (b), (c), (d) and (e) of Section 3 of Article VI of the Constitution when determining the funded debt of the county for the purposes of that section and bonds required to be paid within one year issued to meet appropriations for any fiscal period in anticipation of the collection of the revenues for such period or to meet casual deficits or failures of revenue, together with a grand total of such total principal amounts.
- “2. The total principal amount of all bonds of the state required by clause (h) of Section 3 of Article VI of the Constitution to be included when determining the funded debt of the county for the purposes of that section.
- “3. A grand total of the total principal amounts set forth in the summary pursuant to clauses 1 and 2 above of this section.
- “4. An itemization of the total of the principal amount of all general obligation bonds, revenue bonds and special assessment bonds of the county outstanding and unpaid which may be excluded under clauses (a), (b), (c), (d) and (e) of Section 3 of Article VI of the Constitution when determining the total funded debt of the county for the purposes of that section, together with a grand total of such total principal amounts.
- “5. The difference between the grand total principal amount set forth in the summary pursuant to clause 3 above of the section and the grand total principal amount set forth in the summary pursuant to clause 4 above of this section.

“The director of finance shall also prepare and attach to the tabular summary such supporting schedules as may be required to set forth in detail the bonds included in the itemizations required by clauses 1 and 4 above of this section. Such supporting schedules shall also set forth or make reference to the relevant statutory, charter, ordinance or other legal provision, and the relevant figures of assessment collections, revenues, user tax receipts, cost of operation, maintenance and repair, net revenues, net user tax receipts, reimbursements to the general fund and other financial information, justifying the inclusion of such bonds in the itemization required by clause 4 above of this section. The director of finance shall indicate in the supporting schedules whether the financial findings and figures are based upon the records of his office or upon audited statements and reports, and if based upon the latter, shall identify in the schedules the audited reports and statements.

“Section -3. Supplemental Determination. Whenever the county proposes to issue bonds, the director of finance shall prepare a supplemental summary of the indebtedness of the county setting forth therein such information and findings as of a date within thirty days of the delivery of such bonds as will bring up to date and make current the most recent summary prepared in accordance with the provisions of Section -2. The director of finance shall also prepare and attach to such supplemental summary such supporting schedules as may be required to set forth in detail the variations and changes from the summary prepared in accordance with Section -2, including such legal and financial findings as will justify any changes in the itemizations set forth in such previous summary pursuant to the requirements of clause 4 of said section. If all the bonds proposed to be issued may be excluded when determining the funded debt of the county for the purposes of Section 3 of Article VI of the Constitution by reason of the provisions of clauses (b) or (c) of that section, the supplemental summary and supporting schedules may be limited to such bonds and findings as are necessary to justify such exclusion under said clauses.

“In the event proceeds of the bonds proposed to be issued are to be applied to the retirement in the then fiscal year of outstanding bonds, including notes issued in anticipation of the issuance of the bonds proposed to be issued, for the purpose of applying the provisions of clause (a) of Section 3 of Article VI of the Constitution to the bonds to be retired, that amount of such proceeds to be so applied may be considered and treated as moneys irrevocably set aside for the payment of such bonds.

“Section -4. Exclusionary Provisions. The provisions of this section shall be applicable in determining whether any bonds or portion thereof may be excluded under Section 3 of Article VI of the Constitution when determining the funded debt of the county for the purposes of that section.

“In the event that any general obligation bonds have been issued for assessable improvements, only the principal amount of such bonds for which at least one interest payment date has elapsed may be excluded by reason of the provisions of clause (d) of Section 3 of Article VI of the Constitution. Subject to the provisions of the preceding sentence, the principal amount of general obligation bonds issued for assessable public improvements which may be excluded by reason of the provisions of said clause (d) shall be that percentage of the total principal amount of such bonds which is equal to the percentage of the total of the principal and interest of such bonds theretofore becoming due for the payment of which reimbursement has been made to the general fund of the county from assessment collections available therefor.

“In the event that any general obligation bonds have been issued for a public undertaking, improvement or system from which revenues, user taxes, or a combination of both may be derived for the payment of all or part of the principal and interest as reimbursement to the general fund, only the principal amount of such bonds issued prior to the then current fiscal year and for which at least one interest payment date has elapsed may be excluded by reason of the provisions of clause (e) of Section 3 of Article VI of the Constitution. Subject to the provisions of the next preceding sentence, the principal amount of

general obligation bonds issued for such a public undertaking, improvement or system which may be excluded by reason of said clause (e) shall be that percentage of the total principal amount of such bonds which is equal to the percentage of the principal and interest of such bonds which became due in the immediately preceding fiscal year for the payment of which reimbursement was made to the general fund of the county from the net revenue, net user tax receipts, or a combination of both, derived from such public undertaking, improvement or system in such immediately preceding fiscal year. Amounts received from the federal government for the payment or reimbursement of costs of operation, maintenance and repair of a public undertaking, improvement or system or for the payment of the principal and interest of bonds issued for such public undertaking, improvement or system, may be considered and treated as revenues of such undertaking, improvement or system. Amounts derived from any extra or special motor vehicle fuel tax by law set aside for the use of a county, and amounts received by a county as its share of any motor vehicle fuel taxes or motor vehicle license fees, may be considered and treated as revenue of any street or highway undertaking, improvement or system of the county, including any tunnels, bridges, or overpasses for the movement of motor vehicles. If the costs of operation, maintenance and repair of a public undertaking, improvement or system are the responsibility of the state or a governmental body other than the county, the county shall not be deemed to derive net revenue, or net user taxes, or combination of both, from such undertaking, improvement or system unless the amount of revenues, or user taxes, or combination of both, received by the state or such other governmental body from such undertaking, improvement or system are at least equal to such costs of operation, maintenance and repair.

"Amounts received from on-street parking may be considered and treated as revenues of a parking undertaking.

"Section -5. Concurrence in Summaries. Upon the preparation by the director of finance of any summaries and supporting schedules required by the provisions of Sections -2 and -3, he shall submit such summary and supporting schedules to the corporation counsel of the county for his concurrence as to all legal findings upon which such summary and schedules are based, and to the chairman of the finance committee of the county for his concurrence as to all matters therein. The corporation counsel and the chairman of the finance committee shall notify the director of finance in writing of their concurrence in such summary and supporting schedules. If the corporation counsel or the chairman of the finance committee shall disagree with any items included in the summary and supporting schedules, the corporation counsel or the chairman of the finance committee, as the case may be, shall notify the director of finance in writing of his concurrence as to all other items and as to the items of disagreement and his reasons therefor. The director of finance shall thereupon certify the summary and supporting schedules to the council of the county, setting forth in such certification any items therein disagreed to by the corporation counsel or the chairman of the finance committee. The summary and schedules so certified shall be conclusive as to all items therein concurred to by the corporation counsel and the chairman of the finance committee.

“Section -6. Public Hearing; Declaratory Judgment. In the event the certification by the director of finance of any summary and supporting schedules filed with the council of the county shall set forth therein that the corporation counsel or the chairman of the finance committee has disagreed as to any item therein, the council at its election may hold a public hearing on any factual matters as to which there is disagreement. Such public hearing shall be held at a regular meeting of the council. Notice of such public hearing shall be published at least once at least five days prior to the date set for such meeting, in a newspaper of general circulation in the county. The council after such public hearing may make findings as to all the factual items about which there is disagreement, which findings shall be conclusive. Upon any such findings having been made, the director of finance shall revise the summary and supporting schedules to reflect such findings, and shall certify the revised summary and supporting schedules to the council.

“In the event the certification by the director of finance of any summary and supporting schedules filed with the council of the county shall set forth therein that the corporation counsel has disagreed as to any legal finding or determination therein, the council at its election may direct the corporation counsel to file a declaratory judgment action in the name of the county against the director of finance in the circuit court having jurisdiction over the county. The circuit court having jurisdiction over the county is hereby vested with jurisdiction over such declaratory judgment action. The findings and determinations by the circuit court in such action shall be conclusive. Upon any such findings and determinations having been made by the circuit court, the director of finance shall revise the summary and supporting schedules to reflect such findings, and shall certify the revised summary and supporting schedules to the council.

“Section -7. Effect of Summary. In the event of the issuance of bonds by the county, the summary most recently prepared pursuant to Section -2 prior to the issuance of such bonds, together with the supplementary summary pertaining to such issuance prepared pursuant to Section -3, both as certified to the council, shall be utilized in determining whether the issuance of such bonds would cause the limit set forth in Section 3 of Article VI of the Constitution on the funded debt of the county to be exceeded by such issuance. Such summaries shall be conclusive as to all items therein concurred to by the corporation counsel and the chairman of the finance committee and as to all items therein revised to reflect the findings of the council of the county upon public hearing or the findings and determination of the circuit court in a declaratory judgment action. In the event that the disagreement of the corporation counsel or the chairman of the finance committee as to any item in a summary or supporting schedules has not been resolved upon public hearing or by a declaratory judgment action, the bonds or portion thereof to which such disagreement pertains shall be included in determining the funded debt of the county for the purposes of Section 3 of Article VI of the Constitution unless and until such disagreement is resolved upon public hearing or by a declaratory judgment action.”

ACT 203

SECTION 2. The Revisor of Statutes may re-word and re-number the references in this Act and make such other formal or verbal changes thereto, as may be necessary to conform with the Hawaii Revised Statutes.

SECTION 3. This Act shall take effect upon its approval.
(Approved July 2, 1970.)

ACT 203

H. B. NO. 1569-70

A Bill for an Act Relating to the Definition of Contractors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to clarify the definition of contractor in section 444-1(2) of the Hawaii Revised Statutes. Although "contractor" means any person undertaking certain works in connection with any realty or any structure, the words "project, development, or improvement" do not sufficiently indicate that realty is included. The applicability of the term "contractor" would be clarified and the purpose of this chapter to protect the general public would be furthered by inserting a phrase which specifies the inclusion of certain works in connection with any realty, including landscaping and tree trimming.

SECTION 2. Section 444-1, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 444-1 Definitions. As used in this chapter:

- (1) "Board" means the contractors license board;
- (2) "Contractor" means any person who by himself or through others offers to undertake, or holds himself out as being able to undertake, or does undertake to alter, add to, subtract from, improve, enhance, or beautify any realty or construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish any building, highway, road, railroad, excavation, or other structure, project, development, or improvement, or do any part thereof, including the erection of scaffolding or other structures or works in connection therewith, for another person, for a fee;
- (3) "Contractor" includes a subcontractor and a specialty contractor;
- (4) "Person" means an individual, partnership, joint venture, corporation, or any combination thereof. "Corporation" includes an association, business trust or any organized group of persons;
- (5) "RME" means responsible managing employee.

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.
(Approved July 2, 1970.)

* Edited accordingly

A Bill for an Act Relating to the Sale or Use of Certain Compounds for the Purpose of Inducing in the User an Intoxicated Condition.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to restrict the sale and use in the State of certain compounds which induce an intoxicated condition in the user.

SECTION 2. No person shall breathe, inhale or drink any compound, liquid or chemical containing toluol, hexane, trichloroethylene, acetone, toluene, ethyl acetate, methyl ethyl ketone, trichloroethane, isopropanol, methyl isobutyl ketone, methyl cellosolve acetate, cyclohexanone, or any other substance for the purpose of inducing a condition of intoxication, stupefaction, depression, giddiness, paralysis or irrational behavior, or in any manner changing, distorting or disturbing the auditory, visual or mental processes. For the purposes of this Act, any such condition so induced shall be deemed to be an intoxicated condition.

SECTION 3. No person shall knowingly sell or offer for sale, deliver or give to any person under 18 years of age, unless upon written order of such person's parent or guardian, any compound liquid or chemical containing toluol, hexane, trichloroethylene, acetone, toluene, ethyl acetate, methyl ethyl ketone, trichloroethane, isopropanol, methyl isobutyl ketone, methyl cellosolve acetate, cyclohexanone, or any other substance which will induce an intoxicated condition, as defined herein, when the seller, offeror or deliveror knows or has reason to know that such compound is intended for use to induce such condition.

SECTION 4. This Act shall not apply to any person who commits any act described herein pursuant to the direction or prescription of a practitioner, as defined in the "Hawaii Food, Drug and Cosmetic Act" of the Hawaii Revised Statutes (Section 328-16).

SECTION 5. Whosoever violates any provision of this Act shall be guilty of a misdemeanor.

SECTION 6. This Act shall take effect upon its approval.

(Approved July 2, 1970.)

A Bill for an Act Relating to Termination of Parental Rights and Amending Chapter 571, Hawaii Revised Statutes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to make Sec. 571-61(b) (1) and (2) of the Termination Statute consistent with Sec. 578-2(b) (1) through (6) of our Adoption law.

Act 183 of the 1969 Legislative Session eliminated the concept of abandonment from the adoption statute and replaced it with two alternative factual

situations, namely, failure to communicate with a child for a period of two years when able to do so, or failing to support the child for at least one year when able to do so, as required by law or judicial decree (Sec. 578-2(b) (2)). Satisfactory proof by the petitioner of either factual situation would permit the court to grant the adoption notwithstanding the parent's refusal to consent. This also applies to subsections (1) & (3) - (6).

Termination proceedings are generally used to facilitate adoption and under our present statute the Family Court is empowered to terminate the parental rights of parents who have abandoned a minor child for a period of not less than six months.

In order to make our termination statute conform with our adoption statute and to preclude use of the termination proceeding to avoid compliance with the provisions of the adoption law, it would be desirable to delete the abandonment provisions of the termination statute and replace them with the language of the adoption law. This Act accomplishes this purpose.

SECTION 2. Section 571-61, Hawaii Revised Statutes, is hereby amended to read as follows:

"Sec. 571-61 Termination of parental rights; petition. (a) The legal parents or the surviving parent or the mother of a minor born out of wedlock who desire to relinquish parental rights to any natural or adopted minor and thus make the minor available for adoption or readoption, may petition the family court of the circuit in which they or he or she resides, or of the circuit in which the minor resides, for the entry of a judgment of termination of parental rights. The petition shall be verified and shall be substantially in such form as may be prescribed by the judge or senior judge of the family court. The petition may be filed by the legal parents or the surviving parent or the unmarried mother of a living minor, or by the legal parents or the surviving mother or the unmarried mother of an unborn child at any time following the sixth month of pregnancy; provided, that no judgment may be entered upon a petition concerning an unborn child until after the birth of the child, and until the petitioner or petitioners have filed in the termination proceeding a written reaffirmation of their desires as expressed in the petition or until the petitioner or petitioners have been given not less than ten days' notice of a proposal for the entry of judgment and an opportunity to be heard in connection with such proposal.

- (b) The family courts may terminate the parental rights in respect to any minor as to any legal parent;
- (1) Who has deserted the minor without affording means of identification for a period of at least 90 days or who has voluntarily surrendered the care and custody of the minor to another for a period of at least two years;
- (2) Who, when the minor is in the custody of another, has failed to communicate with the minor when able to do so for a period of at least two years, or has failed to provide for care and support of the minor when able to do so as required by law or judicial decree for a period of at least one year;

- (3) Who has neglected, ill-treated or abused the minor to such an extent that legally authorized judicial action has been taken pursuant to section 571-11(2) (A), which has resulted in the removal of the minor from the physical custody of the parent; or
- (4) Who is found to be mentally ill or mentally retarded to an extent requiring institutional care and therefore incapacitated from giving consent to the adoption of the minor.

Such authority may be exercised only when a verified petition, substantially in the form above prescribed, has been filed by some responsible adult person on behalf of the minor in the family court of the circuit in which the parent or the minor resides and the court has conducted a hearing of the petition. A copy of the petition, together with notice of the time and place of the hearing thereof, shall be personally served at least twenty days prior to the hearing upon the parent whose rights are sought to be terminated. In the event that personal service cannot be effected within the State, service of the notice may be made as provided in section 634-59 or 634-60, whichever is applicable; or in lieu thereof, service of the notice may be made by certified or registered mail with request for a return receipt, which service, evidenced by such receipt signed by the parent whose rights are sought to be terminated, shall be equivalent to personal service."

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect on July 1, 1970.
(Approved July 2, 1970.)

ACT 206

H. B. NO. 1993-70

A Bill for an Act Relating to the Hawaii Foundation for History and the Humanities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 6-16.1, Hawaii Revised Statutes, is amended to read as follows:

"Section 6-16.1 Establishment of the Hawaii Foundation for History and the Humanities; board of trustees. There is hereby created an educational, non-profit corporation to be known as the Hawaii Foundation for History and the Humanities which shall be headed by a board of trustees.

The board shall consist of fifteen members of which the following shall serve as ex officio voting members of the board:

- (1) President of the University of Hawaii
- (2) Chairman of the board of land and natural resources,
- (3) Director of planning and economic development,
- (4) Chairman of the state foundation on culture and arts,

* Edited accordingly

(5) Director of finance,

(6) Attorney General.

The remaining members shall be chosen by the members of the Hawaii Foundation from its membership at any regular meeting of the Hawaii Foundation except that the initial members of the board shall be appointed by the governor of Hawaii. Each member of the board other than ex officio members shall serve for a term of five years from the expiration of his predecessor's term, except that the members first appointed shall serve for terms of from one to five years as designated by the governor at the time of appointment.

A vacancy in the board shall be filled for the balance of the unexpired term as prescribed in the rules and regulations of the Foundation. The chairman of the board shall be elected by majority vote of the members of the board. No compensation shall be paid to members of the board of trustees for their services as such members, but they may be reimbursed for travel and actual and reasonable expenses necessarily incurred by them in attending board meetings and performing other official duties on behalf of the Hawaii Foundation at the direction of the board.

Membership shall be open to any resident of Hawaii upon payment of such reasonable fees as the board of trustees may prescribe."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.

(Approved July 2, 1970.)

ACT 207

H. B. NO. 2003-70

A Bill for an Act Relating to County Budgetary Procedures.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section thereto to read as follows:

1. Notwithstanding any law to the contrary, in any county where the population exceeds one hundred thousand, immediately following the enactment of the operating budget ordinance, the head of the legislative body of the county shall submit to the budget director of said county a schedule showing the expenditures of the body anticipated for each quarter of the fiscal year. Said schedule shall not require the approval of nor can it be altered by the mayor and the legislative body may proceed without other authority to incur obligations or make expenditures after the schedule has been submitted. The director of finance shall approve or issue any requisition, purchase order, voucher, or warrant in accordance with the schedule and upon request of the legislative body. The schedule may be altered at any time by said body.

SECTION 2. New material is underscored. In printing this Act, the revisor of statutes may exclude the underscoring.*

* Edited accordingly

SECTION 3. This Act shall take effect upon its approval.

(Approved July 2, 1970.)

ACT 208

S. B. NO. 1746-70

A Bill for an Act Amending Chapter 386, Hawaii Revised Statutes, as amended, Relating to Workmen's Compensation Law.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Sub-part C of part V, chapter 386, Hawaii Revised Statutes, is hereby amended to read as follows:

"C. PUBLIC BOARD MEMBERS, RESERVE POLICE OFFICERS AND VOLUNTEER FIREMEN

Sec. 386-181 Generally. (a) Definitions. As used in this section, 'public board' means a governmental body, regardless of its designation, duly created under authority vested by law for the purposes of performing quasi-judicial, administrative or advisory functions, 'reserve police officer' means a member of an authorized reserve force of a county police department who performs services in a voluntary and unpaid capacity under the authorized direction of an officer of said department, and 'volunteer fireman' means a person who performs services for a county fire department in a voluntary and unpaid capacity under the authorized direction of an officer of said department.

(b) Benefits of injured board members, reserve police officers, and volunteer firemen.

If a member of a public board, a reserve police officer, or a volunteer fireman is injured while performing services for the board, county police department, or county fire department under the conditions specified in section 386-3, he or his dependents shall be entitled to all compensation in the manner provided by this chapter and for its purpose the member shall, in every case, be deemed to have earned wages for the services.

(c) Computation of average weekly wages. In computing the average weekly wages of an injured public board member, reserve police officer, or volunteer fireman:

- (1) his income from self-employment shall be considered wages;
- (2) he shall, in no event, be considered to have earned less than the minimum hourly wage prescribed in chapter 387;
- (3) wages of other employees in comparable employment shall not be considered;
- (4) section 386-51(5) shall not apply; and
- (5) all provisions of section 386-51 not inconsistent herewith shall apply.

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

* Edited accordingly

ACT 209

SECTION 3. This Act shall take effect upon its approval.
(Approved July 9, 1970.)

ACT 209**H. B. NO. 1602-70**

A Bill for an Act Relating to the Compensation of Certain Persons under the Criminal Injuries Compensation Act and Providing Appropriations Therefor.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The following respective sums of money are hereby appropriated out of the general revenues of the State of Hawaii for the purpose of compensating the following named persons pursuant to Chapter 351, Hawaii Revised Statutes, the Criminal Injuries Compensation Act, in the amounts set opposite their respective names:

ABELLA, ALBERT M.	\$ 358.09
Victim of aggravated assault and battery	
ALBARICO, MARY L.	369.00
Wife of Eulogio T. Albarico, victim of manslaughter	
AMODO, MARGUERITE	255.60
Victim of assault and battery	
CARTER, DEBRA J.	107.25
Victim of unlawful use of explosives	
CASTRO, CLARENCE E.	1,944.82
Father of William Castro, victim of manslaughter	
CHING, RICHARD K. Y.	2,339.04
Victim of assault and battery	
DUMAYAS, MARIANO	809.00
Victim of assault and battery	
ENDO, RONALD K.	\$ 660.08
Victim of assault and battery	
FATU, TOVIA K.	416.50
Victim of aggravated assault and battery	
FITZPATRICK, THOMASE.	2,251.47
Victim of aggravated assault and battery	
FOSTER, EUGENE E.	100.00
Victim of aggravated assault and battery	
HIRATA, IRENE S.	2,308.00
Victim of rape	
HOOLULU, ANDREW K.	2,455.49
Victim of assault and battery	
HU, JANE K.	2,531.03
Victim of aggravated assault and battery	
INABA, ETSUKO	2,260.10
Victim of assault and battery	
JOHNSON, EMMA P.	545.96
Victim of assault and battery	
JONES, AUGUSTA A.	413.00
Victim of aggravated assault and battery	
JOY, IRMA K.	2,084.99
Victim of aggravated assault and battery	
JOY, IRMA K.	411.84
Mother of Ernest Joy, Jr., victim of aggravated assault and battery	

KANAIAUPUNI, ELMO	330.95
Victim of aggravated assault and battery	
KAULIA, JULIAN	2,257.43
Victim of aggravated assault and battery. To be paid to Patrick K. Kaulia, Sr., administrator of Julian Kaulia's estate	
KEKAWA, PATRICIA L.	1,683.10
Victim of aggravated assault and battery	
LEE, WAH CHONG	756.93
Victim of assault and battery	
MARTINEZ, DOLORES A.	355.00
Victim of rape	
MATTHEWMAN, FRIEDA	189.24
Victim of assault (8/2/68)	
Victim of assault with intent to rape (5/30/69)	324.72
MCBRIDE, JAMES M.	460.18
Victim of assault and battery	
MCGRORTY, JANET S.	800.00
Victim of rape	
NUZZI, DANIEL A.	412.50
Victim of assault and battery	
NYEN, DONALD L.	60.00
Victim of intermediate assault	
NYEN, SHIRLEY A. N.	145.00
Victim of intermediate assault	
NAPOLEON, NATHAN	4,325.70
Victim of aggravated assault and battery	
OKAMURA, GENE G.	137.50
Victim of assault and battery	
REED, WILBERT T.	1,469.02
Victim of aggravated assault and battery	
SAUNDERS, GARTH T.	268.00
Victim of intermediate assault	
SAUNDERS, SHARON B.	120.00
Victim of intermediate assault	
SILVA, MELVIN P.	383.14
Victim of aggravated assault and battery	
TOYAMA, MITSURU	1,924.60
Victim of aggravated assault and battery	
UYECHI, RICHARD G.	6,881.90
Victim of aggravated assault and battery	

SECTION 2. The sums appropriated in section 1 shall be paid upon warrants issued by the comptroller of the state upon vouchers approved by the director of the department of budget and finance.

SECTION 3. There is hereby appropriated out of the general revenues of the State of Hawaii the sum of \$66,039.06 or so much thereof as may be necessary to the department of social services to compensate the following named persons pursuant to Chapter 351, Hawaii Revised Statutes, and orders which have been issued thereunder.

BURRIDGE, LOUISA A.	\$10,000.00
Dependent mother of Walter D. Burridge, victim of manslaughter	
CABATU, LEONILA	10,000.00
Dependent wife of Felipe Cabatu, victim of manslaughter	

ACT 210

DAVIS, MATHILDA L.	4,739.06
Mother of Mary E. Davis, victim of carnal abuse of female under 12	
FIEBIG, BERTA MARIE	10,000.00
Dependent mother-in-law of Warren Lee Gales, victim of manslaughter	
JOY, IRMA K.	10,000.00
Dependent wife of Ernest Joy, victim of murder	
LAU, LAN KIU WONG	10,000.00
Victim of assault and battery	
MUNCHMEYER, KRISTEN	1,300.00
Victim of assault with intent to rape	
PARK, SHIRLEY ANN	10,000.00
Dependent wife of Lawrence K. Park, Jr., victim of murder	

SECTION 4. Anything in this Act and the law, including chapter 37, to the contrary notwithstanding, the funds authorized by this Act which are unencumbered and unexpended at the close of any fiscal year shall not lapse and shall not be used for any other purpose.

SECTION 5. If any portion of this Act or its application to any circumstances or persons is held invalid for any reason, the remainder thereof shall not be affected thereby.

SECTION 6. This Act shall take effect upon its approval.
(Approved July 11, 1970.)

ACT 210

H. B. NO. 1926-70

A Bill for an Act Relating to Cemeteries.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 441-22, Hawaii Revised Statutes, as amended, is further amended to read as follows:

“Sec. 441-22. Bond. Each cemetery or pre-need funeral authority licensed hereunder, except as otherwise provided in section 441-22.1, shall file and maintain with the cemetery board a bond (a) in the penal sum of \$50,000 for each new license, and for the renewal of a license for a cemetery or pre-need funeral authority whose gross income as a cemetery or pre-need funeral authority for the taxable year preceding the year of renewal totalled \$50,000 or more, and (b) in the penal sum of \$5,000 for any other cemetery authority, all of such bonds to be issued by a surety company authorized to do business in the State, and running to the State. The bond shall be conditioned that the cemetery or pre-need funeral authority will faithfully, promptly, and truly account and pay over to all persons to or for whom it may sell, lease or otherwise deal in cemetery property pre-need interment or pre-need funeral services all sums of money that may properly be due them. In addition to any other remedy, every person sustaining any damage resulting from a breach of the conditions of the bond may sue the surety for the recovery of any damages sustained by such person. The liability of the surety shall not exceed \$50,000 or \$5,000 as the case may be, for each licensee. The bond shall be continuous in form and remain in full force and effect and shall run concurrently with the license pe-

riod and for any renewals thereof, unless terminated or canceled by the surety. Termination or cancellation shall not be effective, unless notice thereof is delivered by the surety to the board at least sixty days prior to the date of termination or cancellation. The board shall forthwith give notice thereof to the cemetery or pre-need funeral authority affected by the termination or cancellation, which notice shall be by registered or certified mail, with request for return receipt, and shall be addressed, to the licensees at the addresses shown on the records of the board. The license of any licensee shall be suspended upon termination or cancellation of the bond, unless prior thereto, a new bond has been filed with the board. The form of the bond shall be approved by the board."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 3. This Act shall take effect upon its approval.
(Approved July 11, 1970.)

ACT 211

H. B. NO. 2092-70

A Bill for an Act to Amend Part I of Chapter 47, Hawaii Revised Statutes, Relating to County and Municipal Bonds, by Increasing the Rate of Interest on County Bonds and Bond Anticipation Notes to 8 Per Cent.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Notwithstanding the provisions of Chapter 47 of the Hawaii Revised Statutes, as amended, bonds and bond anticipation notes issued under Part I of said Chapter 47 within 12 months of the date of approval of this Act may bear interest, payable annually or semi-annually, at the rate or rates not exceeding eight per centum per annum.

SECTION 2. This Act shall take effect upon its approval.
(Approved July 11, 1970.)

ACT 212

H. B. NO. 1664-70

A Bill for an Act Relating to the Classification of Educational Officers.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. Subsection 297-31(e), Hawaii Revised Statutes, is amended to read as follows:

"(e) Educational officers shall be classified according to their duties and responsibilities and shall meet such requirements as may be determined by the department. Any educational officer who does not meet the requirements of the department may continue to serve in his position, but shall not be advanced to a higher position until he meets the requirement for the higher position.

* Edited accordingly

ACT 212

- (1) Principals and vice-principals shall be further classified on the basis of the number of pupils under their supervision as follows:

	Number of Pupils Under Supervision
Principal I	1-219
Principal II	220-749
Principal III	750-1499
Principal IV	1500 -2249
Principal V	2250-2999
Principal VI	3000 and over
Vice-Principal I	750-1499
Vice-Principal II	1500 and over

Under special circumstances the department may appoint a vice-principal to a school which has less than 750 students; provided that appropriations are available.”

- (2) Principals of technical schools and adult community schools shall be classified under paragraph (1) above according to student enrollment, which shall be the product of the number of students multiplied by the following index numbers:

Technical School (regular day)	Index 2
Technical Evening School	Index 1
Adult Community Schools	Index 1

- (3) Principals of special schools shall be classified as follows:

Diamond Head School	Principal III
Lahainaluna School	Principal III
Olomana School	Principal II
Hoomana School	Principal II
Pohukaina School	Principal II
Linekona School	Principal II

SECTION 2. Section 297-32, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 297-32. **Salary ranges; teachers, educational officers.** Salary ranges for teachers and educational officers of the department of education shall be subject to the requirements of sections 297-31, 297-33, and 297-34 and shall be as follows:

DEPARTMENT OF EDUCATION
SALARY RANGES

POSITIONS	DOESR
TEACHERS	
Class I	1
II	3
III	5

IV	6
V	7
VI	8
VII	9

EDUCATIONAL OFFICERS

Vice Principal	1
Vice Principal II	2
Principal I	3
Principal II	4
Curriculum Specialist I	
Principal III	
Curriculum Specialist II	
District Staff Specialist II	5
State Staff Specialist I	
State Program Specialist I	
Principal IV	
State Staff Specialist II	6
State Program Specialist II	
Deputy District Supt. I	
Principal V	
State Program Admin./Psychologist	7
Principal VI	
Deputy District Supt. II	8
State Program Director	9
District Superintendent I	10
District Superintendent II	11
Assistant Superintendent	12

ALL DOESR salary ranges not indicated above are presently unoccupied."

SECTION 3. Part I, upon its approval, shall take effect on September 1, 1970.

PART II

SECTION 4. Notwithstanding any law to the contrary, vocational agriculture and technical school teachers or vocational agriculture and technical school teachers serving as acting educational officers who are or have been appointed to an educational officer's position for the school year 1969-70 shall be converted to the educational officer's salary schedule under the provision of Act 174, Session Laws of Hawaii, 1965, and then be granted the salary increases as provided by Act 127, Session Laws of Hawaii, 1969.

SECTION 5. Part II shall take effect upon its approval.

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes may exclude the brackets, the bracketed material, or the underscoring.*

* Edited accordingly

ACT 213

SECTION 7. Subject to the foregoing, this Act shall take effect upon approval.

(Approved July 12, 1970.)

ACT 213

S. B. NO. 1559-70

A Bill for an Act Relating to Firemen's Working Hours.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 80-4(d), Hawaii Revised Statutes, as amended by section 1 of Act 190, Session Laws of Hawaii, 1969, is amended by amending paragraph (1) to read as follows:

"(1) The maximum number of hours of work shall be an average of 63 hours of actual service which shall constitute an average work week and which shall be scheduled and computed on the basis of an eight-week cycle."

SECTION 2. This Act shall take effect upon its approval.

(Approved July 16, 1970.)

ACT 214

H. B. NO. 653

A Bill for an Act Amending Section 150-2(5) and Section 150-3 of the Hawaii Revised Statutes Relating to Prohibition Against Importation of Certain Articles.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 150-2(5), Hawaii Revised Statutes, is hereby amended to read as follows:

"(5) Any live snake, flying fox, fruit bat, Gila monster, or injurious insect in any stage of development, or any other animals that might cause damage or become injurious or detrimental to the agricultural or horticultural industries or to the forests of the state; provided that a government agency may bring into and maintain in the state not more than two live, non-venomous snakes of the male sex solely for the purpose of exhibition in a public zoological park, but only after the board of agriculture is presented with satisfactory evidence that the sex of the snakes was established to be male prior to the shipment, and after the board gives written approval conditioned upon such terms as the board may deem necessary, which terms shall include the continuing supervision and control by the board and shall provide that the board may determine the manner in which such snakes shall be disposed of or destroyed. In case of the death of one or both snakes, the government agency may import and maintain replacements subject to the above conditions."

SECTION 2. The second paragraph of Section 150-3, HRS, is hereby amended to read as follows:

"Any or all living creatures mentioned in section 150-2 brought to the state shall be seized immediately upon discovery and be destroyed or sent out of the state, at the discretion of the chief plant inspector or his assistant; any

expense or loss in connection therewith to be borne by the owner or his responsible agent. The foregoing shall not apply to any snake which is brought into the state by a governmental agency solely for the purpose of exhibition in a public zoological park pursuant to section 150-2(5).”

SECTION 3. This Act shall take effect upon its approval.

(Became law July 17, 1970, without Governor's signature pursuant to State Constitution Art. III, §17.)

PROPOSED CONSTITUTIONAL AMENDMENT

S. B. NO. 1689-70

A Bill for an Act Relating to the State Board of Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to propose amendments to section 2 and section 3 of Article IX of the Constitution of the State of Hawaii.

SECTION 2. Section 2 of Article IX of the Constitution of the State of Hawaii is amended to read as follows:

“BOARD OF EDUCATION

SECTION 2. There shall be a board of education composed of members who shall be selected in accordance with law. At least part of the membership of the board shall represent geographic subdivisions of the State.”

SECTION 3. Section 3 of Article IX of the Constitution of the State of Hawaii is amended to read as follows:

“POWER OF THE BOARD OF EDUCATION

SECTION 3. The board of education shall have power, in accordance with law, to formulate policy, and to exercise control over the public school system.”

SECTION 4. This amendment shall take effect upon compliance with Article XV, section 3, of the Constitution of the State of Hawaii.

(Passed final reading in the House of Representatives on April 24, 1970, and in the Senate on April 27, 1970.)

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TABLES SHOWING EFFECT OF ACTS
FIFTH LEGISLATURE, REGULAR SESSION OF 1970
STATE OF HAWAII

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